

Chapter 176

TRANSPORTATION SYSTEM

[HISTORY: Adopted by the Town Council of the Town of Callahan as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Subdivision of land — See Ch. 160.

Zoning — See Ch. 195

ARTICLE I

Traffic Concurrency

[Adopted 12-18-2006 by Ord. No. 11-O-2006]

§ 176-1. Title.

This article may be cited as the "Town of Callahan Traffic Concurrency."

§ 176-2. Adoption of Levels of Service.

The Town hereby adopts the Level of Service for peak hour for all roadway types within the Town.

§ 176-3. Purpose and intent.

The purpose of this article is to establish a method whereby the impacts of development on transportation facilities can be mitigated by the cooperative efforts of the public and private sectors, to be known as the "Proportionate Fair-Share Program," as required by and in a manner consistent with F.S. § 163.3180(16).

§ 176-4. Findings.

The Town Council finds and determines that transportation capacity is a commodity that:

- A. Has value to both public and private sector and the Town Proportionate Fair Share Program.
- B. Provides a method by which the impacts of development on transportation facilities can be mitigated by the cooperative efforts of the public and private sectors.
- C. Allows developers to proceed under certain conditions, notwithstanding the failure of transportation concurrency, by contributing their proportionate fair-share of the cost of a transportation facility for future growth and promotes a strong commitment to comprehensive facilities planning, thereby reducing the potential for moratoria or unacceptable levels of traffic congestion;
- D. Maximizes the use of public funds for adequate transportation facilities to serve future

growth, and may, in certain circumstances, allow the Town to expedite transportation improvements by supplementing funds currently allocated for transportation improvements in the CIE.

- E. Is consistent with F.S. § 163.3180(16), and supports the policies of the Town Comprehensive Plan.

§ 176-5. Applicability.

The Proportionate Fair-Share Program shall apply to all developments in Town that have been notified of a lack of capacity to satisfy transportation concurrency on a transportation facility in the Town Concurrency Management System (the CMS), including transportation facilities maintained by the Florida Department of Transportation or another jurisdiction that are relied upon for concurrency determinations, pursuant to the requirements of § 176-7. The Proportionate Fair-Share Program does not apply to developments of regional impact (DRIs) using proportionate fair-share under F.S. § 163.3180(12), or to developments exempted from concurrency as provided in these land development regulations, policies in the Town's Comprehensive Plan, and/or F.S. § 163.3180, regarding exceptions and de minimis impacts.

§ 176-6. Definitions.

Terms used herein shall have the meanings ascribed herein or by Florida Statutes or Section 2.00.00 of Ch. 195, Zoning.

§ 176-7. Satisfaction of requirements.

- A. An applicant may choose to satisfy the transportation concurrency requirements of the Town by making a proportionate fair-share contribution, pursuant to the following requirements:
 - (1) The proposed development is consistent with the Comprehensive Plan and applicable land development regulations.
 - (2) The five-year schedule of capital improvements in the capital improvement element of the Town's Comprehensive Plan (the CIE) or the long-term schedule of capital improvements for an adopted long-term CMS includes a transportation improvement(s) that, upon completion, will satisfy the requirements of the Town transportation CMS. The provisions of Subsection B may apply if a project or projects needed to satisfy concurrency are not presently contained within the local government CIE or an adopted long-term schedule of capital improvements.
- B. The Town may choose to allow an applicant to satisfy transportation concurrency through the Proportionate Fair-Share Program by contributing to an improvement that, upon completion, will satisfy the requirements of the Town transportation CMS, but is not contained in the five-year schedule of capital improvements in the CIE or a long-term schedule of capital improvements for an adopted long-term CMS, where the following apply:
 - (1) The Town adopts, by resolution or ordinance, a commitment to add the improvement to the five-year schedule of capital improvements in the CIE or long-term schedule of

capital improvements for an adopted long-term CMS no later than the next regularly scheduled update. To qualify for consideration under this section, the proposed improvement must be reviewed by the appropriate Town Council in a quasi-judicial hearing, and determined to be financially feasible pursuant to F.S. § 163.3180(16)(b)1, consistent with the Comprehensive Plan, and in compliance with the provisions of this article. Financial feasibility for this section means that additional contributions, payments or funding sources are reasonably anticipated during a period not to exceed 10 years to fully mitigate impacts on the transportation facilities.

- (2) If the funds allocated for the five-year schedule of capital improvements in the Town CIE are insufficient to fully fund construction of a transportation improvement required by the CMS, the City may still enter into a binding proportionate fair-share agreement with the applicant authorizing construction of that amount of development on which the proportionate fair-share is calculated if the proportionate fair-share amount in such agreement is sufficient to pay for one or more improvements which will, in the opinion of the governmental entity or entities maintaining the transportation facilities, significantly benefit the impacted transportation system. The improvement or improvements funded by the proportionate fair-share component must be adopted into the five-year capital improvements schedule of the Comprehensive Plan or the long-term schedule of capital improvements for an adopted long-term concurrency management system at the next annual capital improvements element update.

- C. Any improvement project proposed to meet the developer's fair-share obligation must meet design standards of the Town for locally maintained roadways and those of the Florida Department of Transportation (FDOT) for the state highway system.

§ 176-8. Intergovernmental coordination.

Pursuant to policies in the intergovernmental coordination element of the Town Comprehensive Plan and applicable policies in any applicable adopted regional plan, the Town shall coordinate with affected jurisdictions, including FDOT, regarding mitigation to impacted facilities not under the jurisdiction of the local government receiving the application for proportionate fair-share mitigation. An interlocal agreement may be established with other affected jurisdictions for this purpose.

§ 176-9. Application process.

- A. Upon notification of a lack of capacity to satisfy transportation concurrency, the applicant shall also be notified in writing of the opportunity to satisfy transportation concurrency through the Proportionate Fair-Share Program pursuant to the requirements of § 176-7.
- B. Prior to submitting an application for a proportionate fair-share agreement, a preapplication meeting shall be held to discuss eligibility, application submittal requirements, potential mitigation options, and related issues. If the impacted facility is on an applicable strategic intermodal system (SIS), then the FDOT will be notified and invited to participate in the pre-application meeting.

- C. Eligible applicants shall submit an application to the Town that includes an application fee of [\$X] and the following:
- (1) Name, address and phone number of owner(s), developer and agent;
 - (2) Property location, including parcel identification numbers;
 - (3) Legal description and survey of property;
 - (4) Project description, including type, intensity and amount of development;
 - (5) Phasing schedule, if applicable;
 - (6) Description of requested proportionate fair-share mitigation method(s); and
 - (7) Copy of concurrency application.
- D. The Town's Zoning Administrator shall review the application and certify that the application is sufficient and complete within 10 business days. If an application is determined to be insufficient, incomplete or inconsistent with the general requirements of the Proportionate Fair-Share Program as indicated in § 176-7, then the applicant will be notified in writing of the reasons for such deficiencies within 10 business days of submittal of the application. If such deficiencies are not remedied by the applicant within 30 days of receipt of the written notification, then the application will be deemed abandoned. The Town Council may, in its discretion, grant an extension of time not to exceed 60 days to cure such deficiencies, provided that the applicant has shown good cause for the extension and has taken reasonable steps to effect a cure.
- E. Pursuant to F.S. § 163.3180(16)(e), proposed proportionate fair-share mitigation for development impacts to facilities on the SIS requires the concurrency of the FDOT. The applicant shall submit evidence of an agreement between the applicant and the FDOT for inclusion in the proportionate fair-share agreement.
- F. When an application is deemed sufficient, complete, and eligible, the applicant shall be advised in writing and a proposed proportionate fair-share obligation and binding agreement will be prepared by the Town or the applicant with direction from the Town and delivered to the appropriate parties for review, including a copy to the FDOT for any proposed proportionate fair-share mitigation on a SIS facility, no later than 60 days from the date at which the applicant received the notification of a sufficient application and no fewer than 14 days prior to the Town Council meeting when the agreement will be considered.
- G. The Town shall notify the applicant regarding the date of the Town Council meeting when the agreement will be considered for final approval. No proportionate fair-share agreement will be effective until approved by the Town Council.

§ 176-10. Determining proportionate fair-share obligation.

- A. Proportionate fair-share mitigation for concurrency impacts may include, without limitation, separately or collectively, private funds, contributions of land, and construction and contribution of facilities. [Note: This language is as provided in F.S. §

163.3180(16)(c)]

- B. A development shall not be required to pay more than its proportionate fair-share. The fair market value of the proportionate fair-share mitigation for the impacted facilities shall not differ regardless of the method of mitigation.
- C. The methodology used to calculate an applicant's proportionate fair-share obligation shall be as provided for in F.S. § 163.3180(12), as follows:
 - (1) The cumulative number of trips from the proposed development expected to reach roadways during peak hours from the complete build out of a stage or phase being approved, divided by the change in the peak hour maximum service volume (MSV) of roadways resulting from construction of an improvement necessary to maintain the adopted Level of Service (LOS), multiplied by the construction cost, at the time of developer payment, of the improvement necessary to maintain the adopted LOS; or
 - (2) In the context of the formula, the term "cumulative" includes only those trips from the stage or phase of a development being considered in the application. The trips expected to reach the failing roadway for this calculation are those identified in the development's traffic impact analysis. Evaluation of concurrency shall be based on the total trips impacting the peak hour of the failing roadway. Assumptions used in the proportionate fair-share calculation should be consistent with those used in the Town's CMS.
 - (3) Where:
 - (a) Development Trips = Those trips from the stage or phase of development under review that are assigned to roadway segment "i" and have triggered a deficiency per the CMS;
 - (b) SV Increase = Service volume increase provided by the eligible improvement to roadway segment "i" per § 176-5;
 - (c) Cost = Adjusted cost of the improvement to segment "i". Cost shall include all improvements and associated costs, such as design, right-of-way acquisition, planning, engineering, inspection, and physical development costs directly associated with construction at the anticipated cost in the year it will be incurred.
- D. For the purposes of determining proportionate fair-share obligations, the Town shall determine improvement costs based upon the actual cost of the improvement as obtained from the CIE, the Metropolitan Planning Organization/Trip Improvement Program (TIP) or the FDOT Work Program. Where such information is not available, improvement cost shall be determined using one of the following methods:
 - (1) An analysis by the Town of costs by cross section type that incorporates data from recent projects and is updated annually and approved by the Town's Public Works Director. In order to accommodate increases in construction material costs, project costs shall be adjusted by the appropriate inflation factor for the Southeastern United States; or

- (2) The most recent issue of FDOT Transportation Costs, as adjusted based upon the type of cross section (urban or rural); locally available data from recent projects on acquisition, drainage and utility costs; and significant changes in the cost of materials due to unforeseeable events. Cost estimates for state road improvements not included in the adopted FDOT Work Program shall be determined using this method in coordination with the FDOT District.
- E. If the Town has accepted an improvement project proposed by the applicant, then the value of the improvement shall be determined using one of the methods provided in this section.
- F. If the Town has accepted right-of-way dedication for the proportionate fair-share payment, credit for the dedication of the non-site-related right-of-way shall be valued on the date of the dedication at 120% of the most recent assessed value by the county property appraiser or, at the option of the applicant, by fair market value established by an independent appraisal approved by the Town and at no expense to the Town. The applicant shall supply a drawing and legal description of the land and a certificate of title or title search of the land to the Town at no expense to the Town. If the estimated value of the right-of-way dedication proposed by the applicant is less than the Town estimated total proportionate fair-share obligation for that development, then the applicant must also pay the difference. Prior to purchase or acquisition of any real estate or acceptance of donations of real estate intended to be used for the proportionate fair-share, public or private partners should contact the FDOT for essential information about compliance with federal law and regulations.

§ 176-11. Impact fee credit for proportionate fair-share mitigation.

- A. Proportionate fair-share contributions shall be applied as a credit against impact fees to the extent that all or a portion of the proportionate fair-share mitigation is used to address the same capital infrastructure improvements contemplated by the local government's impact fee ordinance.
- B. Impact fee credits for the proportionate fair-share contribution will be determined when the transportation impact fee obligation is calculated for the proposed development. Impact fees owed by the applicant will be reduced per the proportionate fair-share agreement as they become due in accordance with any applicable impact fee ordinance. If the applicant's proportionate fair-share obligation is less than the development's anticipated road impact fee for the specific stage or phase of development under review, then the applicant or its successor must pay the remaining impact fee amount to the applicable local government pursuant to the requirements of the applicable impact fee ordinance.
- C. ¹The proportionate fair-share obligation is intended to mitigate the transportation impacts of a proposed development at a specific location. As a result, any road impact fee credit based upon proportionate fair-share contributions for a proposed development cannot be transferred to any other location unless provided for within the local impact fee ordinance.

§ 176-12. Proportionate fair-share agreements.

1. Editor's Note: Former Subsection C, regarding the noninclusion of major projects, was repealed 11-15-2010 by Ord. No. 2010-13; said ordinance also provided for the redesignation of former Subsection D as Subsection C.

- A. Upon execution of a proportionate fair-share agreement (agreement), the applicant shall receive a Town certificate of concurrency approval. Should the applicant fail to apply for a development permit within 12 months or the time frame provided in the local CMS of the execution of the agreement, then the agreement shall be considered null and void, and the applicant shall be required to reapply.
- B. Payment of the proportionate fair-share contribution is due in full prior to issuance of the final development order or recording of the final plat and shall be nonrefundable. If the payment is submitted more than 12 months from the date of execution of the agreement, then the proportionate fair-share cost shall be recalculated at the time of payment based on the best estimate of the construction cost of the required improvement at the time of payment, pursuant to § 176-10 and adjusted accordingly.
- C. All developer improvements authorized under this article must be completed prior to issuance of a development permit, or as otherwise established in a binding agreement that is accompanied by a security instrument that is sufficient to ensure the completion of all required improvements. It is the intent of this section that any required improvements be completed before issuance of building permits or certificates of occupancy.
- D. Dedication of necessary rights-of-way for facility improvements pursuant to a proportionate fair-share agreement must be completed prior to issuance of the final development order or recording of the final plat.
- E. Any requested change to a development project subsequent to a development order may be subject to additional proportionate fair-share contributions to the extent the change would generate additional traffic that would require mitigation. Applicants may submit a letter to withdraw from the proportionate fair-share agreement at any time prior to the execution of the agreement. The application fee and any associated advertising costs paid to the Town will be non refundable.
- F. The Town may enter into proportionate fair-share agreements for selected corridor improvements to facilitate collaboration among multiple applicants on improvements to a shared transportation facility.

§ 176-13. Appropriation of fair-share revenues.

- A. Proportionate fair-share revenues shall be placed in the appropriate project account for funding of scheduled improvements in the Town CIE, or as otherwise established in the terms of the proportionate fair-share agreement. At the discretion of the local government, proportionate fair-share revenues may be used for operational improvements prior to construction of the capacity project from which the proportionate fair-share revenues were derived. Proportionate fair-share revenues may also be used as the local match of 50% for funding under the FDOT Transportation Regional Incentive Program (TRIP).
- B. In the event a scheduled facility improvement is removed from the CIE, then the revenues collected for its construction may be applied toward the construction of another improvement within that same corridor or sector that would mitigate the impacts of development pursuant to the requirements of § 176-7B(2).
- C. Where an impacted regional facility has been designated as a regionally significant

transportation facility in an adopted regional transportation plan as provided in F.S. § 339.155, then the Town may coordinate with other impacted jurisdictions and agencies to apply proportionate fair-share contributions and public contributions to seek funding for improving the impacted regional facility under the FDOT TRIP. Such coordination shall be ratified by the Town through an interlocal agreement that establishes a procedure for earmarking of the developer contributions for this purpose.