

Practice Update

# Osceola County BCC to vote on Transportation Mobility Fee Ordinance on March 16, 2015

March 11, 2015

By Carolyn R. Haslam, Heather Himes, and Valerie Hubbard

The Osceola County Board of County Commissioners (BCC) is scheduled to vote on a proposed Mobility Fee Ordinance on March 16, 2015. Public officials have indicated that the proposal is likely to be enacted, with an effective date of June 22, 2015. Thereafter, a transportation mobility fee and related administrative fee will be assessed for any new development within the unincorporated area of the County, upon issuance of a building permit or tenant occupancy permit.

Until January 1, 2016, the mobility fee will be charged at a reduced rate (approximately 70% of the full mobility fee). The proposed reduced rate table is attached to this update ([click here to view](#)). If the County's proposed Transportation Sales Surtax referendum passes in November, however, the reduced rate will become permanent, as further explained below.

## **Basis and Administration of Proposed Mobility Fee Ordinance**

The proposed Ordinance cites the need to impose mobility fees and related administration fees to fund transportation facilities required to serve new development. The Ordinance is based on a mobility

---

### Related People

Carolyn R. Haslam

---

### Related Work

Real Estate

---

### Related Offices

Orlando  
Tallahassee

fee study and administration fee analysis conducted by the County.

The proposed mobility fee for each type of use is based on the average cost per “person mile of capacity” (PMC) rate times “person miles traveled” for each use. The calculation is then adjusted using transportation revenue credits to ensure that new development receives credit for its payment of general taxes that are used for transportation capacity. The County’s proposed Transportation Sales Surtax, if imposed, will constitute such a credit, thereby allowing the initial reduced mobility fee rate to remain in place.

Lower mobility fees are assessed for mixed-use and transit-oriented development, due to internal capture and mode share. Applicants who believe that the mobility fee calculation does not accurately reflect the impact of the proposed development may elect to undertake an independent mobility fee study, in accordance with the administrative procedures manual.

The Ordinance establishes two mobility fee districts for the entire County, separated by the Florida Turnpike, with a separate mobility fee fund for each district. Mobility fees must be used for capital expenses of transportation facilities that are included in the County’s capital improvement plan or comprehensive plan and that benefit new development within the district in which they were collected. Moreover, mobility fees run with the land and must be encumbered within eight years from the date paid or returned to the then present owner.

### **Mobility Fee Credit Available**

The proposed Ordinance allows for credits when a person constructs, conveys right-of-way for, or pays cash for transportation facilities to mitigate impacts from the proposed development. Eligibility for the credit requires that the facilities be included in the transportation element of the comprehensive plan, be appropriately documented and submitted, and

not be necessary to provide project access to the county transportation network (unless otherwise approved by the BCC).

Parties that have transportation impact fee agreements in place pursuant to Ordinance 2003-24 (as amended by Ordinance 2006-38) are protected. Under certain conditions, development entitled to a transportation impact fee credit under such an agreement may be entitled to a mobility fee credit.

Except for those properties with a transportation impact fee agreement, the proposed Ordinance does not generally provide mobility fee credit for prior transportation impact fee payments. A credit is, however, available for property on which a transportation impact fee was paid (pursuant to the above-cited ordinances) in connection with a retail shopping center building permit, foundation permit or a nonretail multiuse building permit for an unfinished building; said credit is applicable to building permits for completion of units in the shell structure.

Mobility fee credit is also available for qualified transportation mitigation provided in the period between the impact fee moratorium for nonresidential or residential construction, as applicable, and the effective date of the Mobility Fee Ordinance.

If you have further questions on the proposed Mobility Fee Ordinance please contact your Akerman real estate attorney. This practice update is based on the current draft of the proposed Mobility Fee Ordinance, which is subject to change, and the BCC meeting agenda.

---

This Akerman Practice Update is intended to inform firm clients and friends about legal developments, including recent decisions of various courts and administrative bodies. Nothing in this Practice

Update should be construed as legal advice or a legal opinion, and readers should not act upon the information contained in this Practice Update without seeking the advice of legal counsel. Prior results do not guarantee a similar outcome.