

**ADMINISTRATIVE CODE  
BOARD OF COUNTY COMMISSIONERS**

<b>CATEGORY:</b> DEVELOPMENT/PLANNING/ZONING	<b>CODE NUMBER:</b> AC-13-16
<b>TITLE:</b> TRANSPORTATION PROPORTIONATE SHARE CALCULATIONS FOR NEW DEVELOPMENT PROJECTS	<b>ADOPTED:</b> 8/21/91
	<b>AMENDED:</b> 1/4/95 7/7/98 11/15/2016
	<b>ORIGINATING DEPARTMENT:</b> COMMUNITY DEVELOPMENT AND TRANSPORTATION

**I. PURPOSE**

This administrative code describes procedures to calculate proportionate share costs for projects that may be subject to development agreements, and proportionate share agreements. All new development is required to pay road impact fees under the terms of Lee County Ordinance 15-03, Lee County Land Development Code (LDC), Chapter 2, Article VI, Division 2, as amended. Some developments may be required to pay a proportionate share of roadway improvement costs in excess of road impact fees pursuant to Chapter 163.3180(5)(i), and 380.06(15)(e) F.S., as amended and in the LDC, based on their larger size, use, character, or location. Mitigation of impacts on the County's road system is mandated by the Lee County Comprehensive Plan, specifically Policy 38.1.1.

**II. SCOPE**

The policies and procedures contained in this code have been prepared to aid the development community, Lee County Board of County Commissioners (BOCC) and staff in assessing mitigation for significant impacts of developments on the surrounding road network. This code is supplemental in nature as to the following:

- A. Developments of Regional Impact (DRI), pursuant to Chapter 380, Florida Statutes, and Rule 73C-40.045, Florida Administrative Code for the determination of significant impacts.
- B. Development Agreements and proportionate share agreements, pursuant to Chapter 163, F.S., or Chapter 125, F.S.
- C. Lee County Land Development Code (LDC) Chapter 2 provisions for payment of road impact fees and the determination of proportionate share contributions.

**III. POLICY/PROCEDURE**

A. Definitions

Cost - All improvements and associated costs of capital improvement implementation, such as design, right-of-way acquisition, planning and design studies, engineering, inspection, and physical development costs directly associated with construction of motor vehicle, transit, pedestrian and bicycle facilities, as may be adjusted to the anticipated year it will be incurred.

Development Trips - Estimated vehicular traffic volume assigned to a roadway segment(s)

from the stage or phase of development under review;

Phase - a discrete, five year or lesser construction timeframe of development, including the local government issuance of certificates of occupancy for that construction or its functional occupancy.

Potential Significant Impact - When traffic projected to be generated at the end of any stage or phase of the proposed development, cumulatively with previous stages or phases, will utilize five percent or more of the adopted peak hour level of service maximum service volume of the roadway.

Proportionate Share – Calculated and based upon the number of trips from the proposed development expected to reach roadways during the peak hour from the stage or phase being approved, divided by the change in the peak hour maximum service volume of roadways resulting from construction of an improvement necessary to maintain or achieve the adopted level of service, multiplied by the construction cost, at the time of development payment, of the improvement necessary to maintain or achieve the adopted level of service.

Roads Impact Fee District – The geographic area in which road impact fees may be collected and spent, as depicted in the Lee County Land Development Code Appendix K, Map 1.

Service Volume – The highest number of vehicles for a given level of service.

Service Volume Increase - The additional number of vehicles for a given level of service resulting from an improvement to a roadway segment.

Significant Impact - When traffic projected to be generated at the end of any stage or phase of the proposed development, cumulatively with previous stages or phases, will utilize five percent or more of the adopted peak hour level of service maximum service volume of the roadway, and the roadway is projected to be operating below the adopted level of service standard at buildout of that stage or phase.

Stage - one in a series of approximately equal increments in the development of a proposed development upon which are placed quantified limits for construction that are reasonably calculated to ensure that the state and regional roadway network affected by the proposed development will not be overburdened by development traffic. A stage is to be a subset of a particular project phase of development planned for a project by a developer. A stage of development includes both a specific type and amount of development and the associated, approved buildout timeframe for that development.

State Highway System – All streets, road, highways, and other public ways open to travel by the public generally and dedicated to the public use according to law or by prescription and designated by the Florida Department of Transportation (FDOT), consistent with Chapters 334 and 335, F.S.

Transportation Deficiency - a transportation facility or facilities on which the adopted level-of-service standard is exceeded by the existing, committed, and vested trips, plus additional projected background trips from any source other than the development project under review, and trips that are forecast by established traffic standards, including traffic modeling, consistent with the University of Florida's Bureau of Economic and Business Research medium population projections. Additional projected background trips are to be coincident with the particular stage or phase of development under review.

## B. Applicability of Significant Impacts

1. For a stage or phase of DRI development, the determination of significant impacts and proportionate share is based on a multiagency review process outlined in Florida Statute 380.06 and Florida Administrative Code 73C-40.045. DRI traffic impact analysis will generally be included in an Application for Development Approval (ADA) or Notice of Proposed Change (NOPC). Revisions to mitigation requirements in an approved DRI Development Order condition will require further traffic analysis and must be submitted as an NOPC. Specific assumptions for a DRI traffic analysis may be discussed at the transportation methodology meeting held prior to submittal of the DRI application. The methodology meeting for an unincorporated Lee County DRI will be conducted with Lee County DCD/DOT staff and review staff from FDOT, and all other municipalities or agencies that maintain roadway segments in the study area.
2. Recommended conditions for a zoning application, unless coincident with a DRI ADA or NOPC, will not include the determination of significant impacts for calculation of proportionate share.
3. The approved Development Order (DO) traffic impact statement will include a determination of potential significant impacts and significant impacts. If there are significant impacts, then the approved DO may include a stipulation requiring the applicant to enter into a proportionate share agreement. Analysis based on the methodology described in III.D. is required when the projected development traffic:
  - a. generated at the end of any DO stage or phase of a proposed non-DRI development, cumulatively with previous stages or phases, will exceed 300 trip ends during the peak hour, or
  - b. shows a potential significant impact.
4. Staff will calculate a preliminary proportionate share based on an approved Traffic Impact Statement (TIS), as outlined in III.D. and as demonstrated in the example scenarios in Exhibit 1, to determine whether a proportionate share agreement will be necessary.
  - a. No agreement is required with Lee County if the proportionate share is less than road impact fees for the stage or phase of the development. Proportionate share mitigation will be satisfied by payment of road impact fees. However, an applicant may initiate a proportionate share agreement at their option.
  - b. An agreement with Lee County is required if the proportionate share for significant impacts on county maintained roadways is greater than road impact fees for the stage or phase of the development. Proportionate share mitigation may be satisfied through a schedule of payments, which may include road impact fees.
  - c. Lee County may, at its option, participate in an agreement with other agencies when the proportionate share of significant impacts on county maintained roadways is less than road impact fees for the stage or phase of the development, and there are significant impacts to roadways under other jurisdictions. Proportionate share mitigation will be satisfied through payment of road impact fees or as outlined in the agreement.

### C. Proportionate Share Calculations

1. Proportionate shares must be calculated using the formula in the Land Development Code Section 2-71:

$$\text{Proportionate Share} = \text{Development Trips}/(\text{Service Volume increase}) * \text{Cost}$$

2. This proportionate share formula is applied to each roadway segment on which the development phase or stage has significant impacts. The sum of these computations is the development's phase or stage proportionate share. The method and timing of payment of proportionate share amounts above roads impact fees will be established in a proportionate share agreement as required by the Lee County Land Development Code Section 2-74 and as further specified herein.
3. The applicant shall receive a credit against proportionate share on a dollar-for-dollar basis for impact fees and other transportation mitigation requirements paid or payable in the future for the project. The credit shall be reduced up to 20 percent by the percentage share that the project's traffic represents of the added capacity of the selected improvement.

### D. Methodology

The Lee County Concurrency Report and the approved DO TIS will identify preliminary transportation deficiencies. The applicant's TIS data will be used to develop a preliminary proportionate share analysis and will determine significant impacts based on this administrative code. When a significant impact is identified, the applicant has the option to perform a more detailed traffic study to further evaluate significant impacts and transportation deficiencies to determine the proportionate share for the development phase or stage. The applicant may request a methodology meeting for a more detailed study prior to, or coincident with, the pre-application meeting. All components of the methodology for the applicant to calculate a proportionate share are subject to review and approval by Lee County. The following may be discussed in the methodology meeting and must be documented in a more detailed study to determine the proportionate share:

1. Study area - Identify significant impacts and transportation deficiencies and include any roadway segment and parcels that are :
  - a. Adjacent to, within one mile of, or between, each potential significant impact roadway segment.
  - b. Within three miles of each potential significant impact roadway segment and approved for development with 300 or more PM peak hour trips.
2. Traffic analysis year of completion of the development phase or stage.
3. Approved development trips.
  - a. Potential traffic from all existing land uses within the study area, including previous development phase or stage DO approvals, DRI, Planned Development, DO, commercial and residential conventional zoning approvals.
  - b. Approximation of approved development trips outside the study area by use of a manual estimated increase in traffic or a Florida Standard Urban Transportation Modeling Structure (FSUTMS) analysis. Include assumptions, source data and

adjustments.

4. Existing plus committed road network - Include committed improvements programmed for full funding of construction within the first five years of an adopted local or state capital improvement program.
5. Service volumes - As adopted by the agency or jurisdiction responsible for maintenance of each significantly impacted roadway segment. Generalized service volumes must be used on county-maintained facilities for traffic analysis of a phase or stage more than five years from the date of the last update of the link-specific service volumes.
6. Road improvement cost - Calculations specific to the identified project for the significantly impacted roadway and based on the best available data.
  - a. Capital improvement program costs determined by local or state agencies in an adopted study or as contained in an adopted capital improvement program.
  - b. If the project is not included in any capital improvement program, then the cost may be obtained from the current Lee County Metropolitan Planning Organization's Long Range Transportation Plan.
  - c. If project costs are unavailable in a local or state program or plan, then total average cost per mile figures, and estimated component costs may be utilized.
    1. Construction costs must be based on average FDOT cost per mile or square foot data.
    2. Right-of-way acquisition costs based on property appraisals and comparable sales with review and input from County Lands.
    3. Project planning, management, design, studies, permitting, and inspection cost varies by project, and may initially be estimated as 60 percent of the construction cost.
7. Trip generation – Use of the current edition of ITE Trip Generation, ITE Trip Generation Handbook, or alternative calculation methods and data sources as approved by DCD/DOT staff to determine project trip generation, internal capture, pass-by capture, and net new trips.
8. Trip distribution and assignment – Allocation of project traffic to the existing plus committed network.
9. Background traffic – Methods proposed to estimate traffic volume from existing land uses and development trips as outlined above and based on the adopted LOS. Sources for traffic and permanent count station data such as truck factors, 100<sup>th</sup> highest volume hour of the year (K-100), peak season factor, and directional (D) factors.
10. Level-of-service determinations – Method to calculate background traffic, project traffic from the stage or phase being considered, directional and total traffic in the 100<sup>th</sup> highest volume hour of the project stage or phase buildout year. Identify any transportation deficiency.

11. Determination of proportionate share – Input data for all calculations and comparison to roads impact fees. The proportionate share calculation will not include road segments with an identified transportation deficiency.

#### E. Proportionate Share Application Process

If an agreement is needed based on the determination that the phase or stage of development's proportionate share is greater than road impact fees as described herein, then the following application process must be followed:

##### 1. Agreement Meeting

- a. The applicant must schedule a meeting with the County Attorney, DOT and DCD directors, or designee(s), to discuss the legal and technical aspects of the proportionate share agreement,
- b. If preliminary significant impacts are identified on a roadway maintained by another jurisdictional agency, then a representative from that agency must be invited to the meeting.

2. Application - When a proportionate share agreement is submitted, the developer must submit a package containing the following to DCD (failure to include one or more of these items will result in delay of agreement preparation):

- a. Name, address and phone number of owner(s), developer and agent;
- b. Property location, including parcel identification numbers;
- c. Legal description and survey of property;
- d. Project description, including type, intensity and amount of development;
- e. Proposed phasing or staging schedule, if applicable;
- f. Description of requested proportionate share mitigation method;
- g. Copy of DRI/Zoning condition(s) requiring a proportionate share agreement;
- h. Copy of the project's TIS; and,
- i. Location map depicting the site and affected road network.

##### 3. Draft agreement

The County Attorney, or designee, may prepare a draft agreement or may permit an applicant to prepare a draft agreement for review. Other jurisdictional agencies whose road segments are impacted may be a party to an agreement with Lee County, or enter into a separate agreement with the applicant. A draft agreement for review under this administrative code will be delivered to all parties for review. DCD and DOT will provide technical support for traffic analysis review, proportionate share calculations and agreement content.

##### 4. Final Approval by the Lee County Board of County Commissioners

The county will notify the applicant regarding the date the agreement will be considered for final approval by the Board at a regularly scheduled Board meeting. The agreement will go into effect upon execution by the Board and must be executed prior to approval of the first DO

for vertical construction.

5. Appropriation of revenues

The county will deposit proportionate share revenues in the appropriate roads impact fee district for funding of scheduled improvements in the Capital Improvement Element (CIE), or as otherwise established in the terms of the proportionate share agreement.

If a scheduled transportation 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 Lee County Land Development Code section 2-69.

F. Intergovernmental Coordination

1. Where an impacted regional transportation facility has been designated as regionally significant in an adopted regional transportation plan as provided in Section 339.155, F.S., the county may coordinate with other impacted jurisdictions and agencies to apply proportionate share contributions to seek funding for improving the impacted regional facility-through an interlocal agreement. Coordination will begin with the agreement process described herein. After initial notification, the impacted jurisdiction has up to 90 days in which to notify the county of intent to participate in an agreement regarding the proportionate share obligation. If the impacted jurisdiction declines participation, then the applicant would be subject only to the proportionate share requirements of the county, and county approval may include a condition that the applicant provides evidence that the proportionate share obligation to the impacted jurisdiction has been satisfied.
2. Pursuant to policies in the Intergovernmental Coordination Element of the Lee Plan and applicable policies in the Southwest Florida Regional Planning Council's Strategic Regional Policy Plan, the county will coordinate with affected jurisdictions, including FDOT, regarding mitigation to impacted transportation facilities not under the jurisdiction of the county. An interlocal agreement may be established with other affected jurisdictions to address the cross jurisdictional transportation impacts of development.

EXHIBIT 1  
Sample proportionate share calculation

Scenario One

Development “A” includes Congested Road, a four-lane arterial, in the study area. The traffic analysis indicates the project, including all approved phases and stages, will add 120 vehicle trips to Congested Road from 100<sup>th</sup> Avenue to 110<sup>th</sup> Avenue in the peak hour peak direction. The maximum service volume at LOS “E” is 2,000 vehicles in the peak hour in the peak direction.

Based on the calculation below, Development “A” utilizes six percent of the adopted service volume.

Significance determination

percentage = (Cumulative project traffic)/(maximum service volume at LOS standard) =  
(120)/(2000) = 6 percent

The approved traffic analysis indicates an unacceptable LOS “F”, without the project stage on Congested Road from 100<sup>th</sup> Avenue to 110<sup>th</sup> Avenue. This meets the definition of an identified transportation deficiency. The development is not required to pay a proportionate share towards a future improvement to Congested Road,

Scenario Two

Development “B” includes Destination Parkway, a four-lane arterial, in the study area. The maximum service volume at LOS “E” is 2,000 vehicles in the peak hour in the peak direction. The approved traffic analysis indicates an acceptable LOS “D”, and no identified transportation deficiencies without the project stage, and an unacceptable LOS “F” with the project stage. The traffic analysis indicates the project, including all approved phases and stages, will add 180 vehicle trips to Destination Parkway from 150<sup>th</sup> Street to 160<sup>th</sup> Street in the peak hour peak direction. Based on the calculation below, Development “B” utilizes nine percent of the adopted service volume.

Significance determination

percentage = (Cumulative project traffic)/(maximum service volume at LOS standard) =  
(180)/(2000) = 9 percent

This meets the definition of a significant impact on Destination Parkway with five percent or more of the adopted peak hour level of service maximum service volume of the roadway, and the roadway is projected to be operating below the adopted level of service standard at buildout of that stage or phase.

The traffic analysis indicates the project stage under review will add 40 vehicle trips to Destination Parkway from 150<sup>th</sup> Street to 160<sup>th</sup> Street in the peak hour, peak direction. An improvement is identified in the MPO LRTP with an estimate cost of \$5,000,000 for six-laning Destination Parkway from 150<sup>th</sup> Street to 160<sup>th</sup> Street. The service volume will increase from 2,000 to 3,000 vehicles in the peak hour in the peak direction.

Applying the data to the proportionate share formula

Development trips = 40 (vehicle trips in the peak hour, in the peak direction from the phase or stage under review)

Service Volume Increase = (SV at 6-lanes) – (SV at 4-lanes) = 3,000 – 2,000 = 1,000  
Cost = \$5,000,000

Development “B” Proportionate Share for Destination Parkway from 150<sup>th</sup> Street to 160<sup>th</sup> Street  
= Development Trips/(Service Volume Increase) \* Cost  
= (40)/(1000) \* \$5,000,000  
= 0.04 \* \$5,000,000  
= \$200,000.