ARTICLE III. CONCURRENCY

DIVISION 1. GENERALLY*

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***State law references:** Concurrency, F.S. §§ 163.3180, 163.3202(2)(g).

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Sec. 42-221. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Availability means the necessary public facilities and services will be provided in accordance with the standards set forth in F.A.C. 9J-5.0055(2).

Certificate of occupancy means certification by the county planning director or other designated official that all permits required by the county have been obtained, that compliance inspections have been completed, that the work has been approved by the appropriate county official and that the facility is ready for occupancy or use.

Concurrency means the necessary public facilities and services to maintain the adopted level of service standards are available when the impacts of development occur. Level of service standards have been adopted for:

(1) Roads;

(2) Sanitary sewer;

(3) Solid waste;

(4) Drainage;

(5) Potable water; and

(6) Parks and recreation.

Concurrency management system means the procedures and/or process that the county uses to assure that development orders and permits are not issued unless the necessary facilities and services are available concurrent with the impacts of development.

Development means the carrying out of any significant building activity or commercial mining operation, the making of any substantial (as defined in Black's Law Dictionary) change in the use of land, or the platting of land when subject to the provisions of F.S. ch. 177.

Development order means an order granting, denying or granting with conditions an application for approval of a development project or activity. A distinction is made between development order, which encompasses all orders and permits, and three distinct types of development orders:

(1) Preliminary development order;

(2) Final development order; and

(3) Development permit.

a. *Preliminary development order* means any preliminary approval which does not authorize actual construction, mining, alterations to land and/or structures or similar activities. A preliminary development order may authorize a change in the allowable use of land or a building, and may include conceptual and conditional approvals where a series of sequential approvals are required before final action which authorizes commencement of construction or land alteration. For purposes of this article, preliminary development orders include, but are not limited to, future land use map amendments, comprehensive plan amendments which affect land use or development standards, preliminary development plan approval, master plan approval and preliminary plats.

b. *Final development order* means the final authorization of a development project which authorization must be granted prior to issuance of a development permit as defined for purposes of this article. (The final development order authorizes the project, whereas the development permit authorizes specific components of the project such as building construction, parking lot installation, landscaping, etc.). For purposes of this article, final development plan approval is the final development order. A final development order should not be issued until a determination of concurrency has been made, giving due consideration to the provisions of section 42-225. A final development order may be issued subject to the completion of minimum requirements for concurrency set forth in section 42-252.

c. *Development permit* means the official document which authorizes the commencement of construction or land alteration without need for further application and approval. Development permits include all types of construction permits, including plumbing, electrical, foundation, mechanical, etc., in addition to the building permit itself, grading and clearing permits, septic tank permits, sign permits and all other permits required by this chapter.

Public facilities and services mean those items covered by the county comprehensive plan, required by F.S. § 163.3177, and for which level of service standards must be adopted under F.A.C. ch. 9J-5. These include:

(1) Roads;

(2) Sanitary sewer;

(3) Solid waste;

(4) Drainage;

(5) Potable water; and

(6) Parks and recreation.

(LDC § 3.00.02)

Cross references: Definitions generally, § 1-2.

Sec. 42-222. Purpose.

The purpose of this article is to describe the requirements and procedures necessary to implement the concurrency provisions of the county comprehensive plan.

(LDC § 3.00.01)

Sec. 42-223. Appeals.

Appeals from decisions of this article may be appealed in accordance with section 42-55.

(LDC § 3.06.00)

Sec. 42-224. Certificate of concurrency.

(a) A certificate of concurrency shall be required prior to the issuance of any development permit. If a development will require more than one development permit, the issuance of a certificate of concurrency shall occur prior to the issuance of the initial development permit. Permits necessary to the achievement of concurrency, however, such as septic tank permits, may be issued prior to the issuance of a general certificate of concurrency. In all cases, a test for concurrency will occur prior to the approval of an application for a development order or permit which contains a specific plan for development, including densities and intensities of use. The test for concurrency should be sufficient to indicate any problem areas that must be resolved before a certificate of concurrency can be issued.

(b) A certificate of concurrency shall automatically expire simultaneously with the expiration of the development permit to which it applies. If the development permit does not have a specific

expiration date, the certificate of concurrency shall expire one year from the date of the issuance of the development permit. If a time extension is granted prior to the expiration of the development permit, then the accompanying certificate of concurrency shall be automatically renewed for the duration of the extension given to the development permit. Should the extension equal or exceed one year from the date of the issuance of the initial development permit, a new concurrency review shall be performed for which a reasonable fee may be assessed to defray the cost.

(LDC §§ 3.01.01, 3.01.02)

Sec. 42-225. Exemptions.

(a) Applicants for development permits for small projects such as the construction of a single-family residence, or the placement of a mobile home on a single lot or parcel of land for residential use, or the repair or remodeling of an existing building, or construction of small accessory buildings or facilities, or any similar construction or development activity, none of which significantly increases the demand for public services and/or facilities, shall be exempt from a detailed concurrency review if, in the judgment of the designated county planning official, the prima facie evidence described in section 42-229 indicates capacity and levels of service for public facilities are sufficient to accommodate the proposed development. Having made this determination, the county planning official shall be authorized to certify concurrency.

(b) Applicants for development permits for residential subdivisions which are limited to single-family dwellings shall be presumed to be concurrent for potable water where the service provider is to be an on-site well system.

(LDC §§ 3.02.01, 3.02.02)

Sec. 42-226. Burden of proof.

The burden of showing compliance with the adopted levels of service and meeting the concurrency requirements shall be upon the applicant; however, the planning director or his designee will direct the applicant to the appropriate staff person who shall provide any information which is available from county files, subject to section 42-229, that is necessary to satisfy the concurrency test.

(LDC § 3.01.03)

Sec. 42-227. Development not meeting concurrency.

Should a development not pass the concurrency test, one or more of the following strategies shall be used to rectify this:

(1) A plan amendment which lowers the adopted level of service standard for the affected facilities and/or services.

(2) A renegotiated binding contract between the county and the developer.

(3) A renegotiated enforceable development agreement, which may include, but is not limited to, development agreements pursuant to F.S. § 163.3220.

(4) A change in the funding source.

(5) A reduction in the scale or impact of the proposed development.

(6) Phasing of the proposed development.

(7) Denial of the permit.

(LDC § 3.03.05)

Sec. 42-228. Adopted levels of service.

The adopted levels of service (LOS) standards for public facilities and services as contained in the county comprehensive plan are adopted by reference.

(LDC § 3.04.00)

Sec. 42-229. Monitoring.

(a) *Annual report*. The purpose of the annual report is to provide monitoring of public facilities and services to ensure maintenance of the adopted levels of service in a format which is accessible to the public. Demand and capacity information will, however, be tracked on a project-by-project basis as each development or building permit is submitted. The annual report shall be presented to the board of county commissioners at a public hearing no later than March 1 of each year.

(b) *Contents*. The county shall prepare an annual report as part of the concurrency management system that includes:

(1) A summary of actual development activity, including a summary of certificates of occupancy.

(2) A summary of development permit activity, indicating those that:

a. Expired without commencing construction; and

b. Are active at the time of the report.

(3) A summary of development orders issued, indicating those that:

a. Expire without subsequent development permits; and

b. Are valid at the time of the report.

(4) An evaluation of each facility and service indicating:

a. The capacity available for each at the beginning of the reporting period and the end of the reporting period;

b. The portion of the available capacity held for valid preliminary and other development orders;

c. A comparison of the actual capacity to calculated capacity resulting from approved development orders and development permits which would upgrade the facilities;

d. A comparison of actual capacity and levels of service to adopted levels of service from the county comprehensive plan; and

e. A forecast of the capacity of each based upon the most recently updated schedule of capital improvements in the capital improvements element of the comprehensive plan.

(c) *Prima facie evidence.* The concurrency management system annual report shall constitute prima facie evidence of the capacity and levels of service of public facilities for the purpose of issuing development permits during the 12 months following completion of the annual report unless more recent data is available from official sources, such as department of transportation traffic counts, data compiled by the county planner, data collected and certified by licensed professionals which is compatible with the existing data base, properly documented and acceptable to the county, etc. The annual report shall be presented to the board of county commissioners at a public hearing no later than March 1 of each year.

(LDC §§ 3.05.01--3.05.03)

Secs. 42-230--42-250. Reserved.

DIVISION 2. REVIEW PROCEDURE

Sec. 42-251. Generally.

The county shall use the procedures listed in this division to determine compliance of an application for a development permit with the concurrency management system. At the time of application for a development permit, a concurrency evaluation shall be made to determine the availability of the facilities or services required to meet the requirements of concurrency. Except for information available from county files as set forth in section 42-226, the applicant for a development permit shall provide the county with all information required so as to enable the concurrency evaluation to be made. Upon receipt of a complete concurrency review application, the planning director or his designee shall perform the concurrency evaluation for each of the required public facilities and services. A concurrency review application shall not be deemed complete until all applicable permits, verification letters or other items of profit have been submitted subject to section 42-255. Due consideration shall be given to the provisions of section 42-225.

(LDC § 3.03.01)

Sec. 42-252. Minimum requirements for concurrency.

Prior to the issuance of a building permit, the county shall verify that all public facilities are available to serve developments for which development orders were issued prior to the date of adoption of the county comprehensive plan. Development orders for future development shall not be issued unless the county has demonstrated the following:

(1) Compliance with the adopted level of service standards in the comprehensive plan; and

(2) One or a combination of the following conditions exist:

a. Necessary public facilities and services are in place at the time the development order or permit, consistent with F.A.C. 9J-5.055(2)(e), is issued;

b. A development order or permit is issued subject to the condition that a certificate of occupancy shall not be issued unless necessary facilities and services are in place;

c. Necessary facilities are under construction at the time a development order or permit is issued;

d. For recreation or transportation facilities only, necessary facilities are the subject of a binding executed contract for the construction of the facilities at the time a development order or permit is issued, which contract provides for the commencement of construction within one year of the issuance of the development order or permit; and/or

e. Necessary facilities and services are guaranteed in an enforceable development agreement, including, but not limited to, development agreements pursuant to F.S. § 163.3220 or F.S. ch.

380, which guarantees that the necessary facilities and services will be in place when the impacts of the development occur.

(LDC § 3.03.03)

Sec. 42-253. Prioritization of competing projects.

In such cases where there are competing applications for public facility capacity, the following order of priority shall apply:

(1) Issuance of a building permit based upon previously approved development orders permitting development;

(2) Issuance of a building permit based upon previously approved development orders permitting new development;

(3) Issuance of new development orders permitting redevelopment; or

(4) Issuance of new development orders permitting new development.

(LDC § 3.03.04)

Sec. 42-254. Additional conditions related to capital improvements element.

In addition to the minimum requirements set forth in section 42-252, the following conditions apply in general:

(1) Amendments to the comprehensive plan can be made twice each year or as otherwise permitted by F.S. § 163.3187. In addition, changes can be made to the capital improvements element by ordinance if the changes are limited to the technical matters listed in F.S. ch. 163, pt. II (F.S. § 163.3161 et seq.).

(2) No development order shall be issued which would require the board of county commissioners to delay or suspend construction of any of the capital improvements on the five-year schedule of the capital improvements element, subject to exceptions permitted by F.S. § 163.3187.

(3) If by issuance of a development order, a substitution of a comparable project on the five-year schedule is proposed, the applicant may request the county to consider an amendment to the five-year schedule in one of the twice annual amendment reviews.

(4) The result of any development not meeting the adopted level of service standards for public facilities shall be cessation of the affected development or one of the strategies set forth in section 42-227.

(LDC § 3.03.06)

Sec. 42-255. Roads.

(a) *Generally.* The evaluation of roads shall compare the existing level of service to the adopted level of service standards established by the county comprehensive plan for all roads. The level of service shall be based upon the existing roads, including any proposed improvements to those roads, meeting the minimum requirements for concurrency as set forth in section 42-252.

(b) *Submittals.* Unless the applicant qualifies for exemption under section 42-225, the applicant for a development permit shall submit to the county, along with the application for a development permit, the following information:

(1) The capacity (C) of the road segments at the adopted level of service, using the most recent state department of transportation generalized level of service tables.

(2) A determination of the number of trips (D) generated by the proposed project during the p.m. peak hour, using the most recent edition, beginning with the fourth edition, of the ITE Trip Generation Report.

(3) The existing traffic volume (V) of road segments affected by the proposed project or development, as given in the county comprehensive plan, traffic circulation element or based on the most recently available traffic counts, provided they are approved by the planning director.

(4) The summation of subsections (2) and (3) of this section (i.e., D + V). This sum shall be known as N, for new volume upon the road segments.

(5) The ratio, as a percentage, of subsection (4) to subsection (1) of this section (i.e., N/C).

(c) *Evaluation.* For developments where subsection (5) of this section exceeds 100 percent, concurrency will not be met unless one of the minimum requirements listed in section 42-252 is met.

(LDC § 3.03.02(A))

Sec. 42-256. Potable water.

The following applies to review for potable water.

(1) *Submittals.* Unless the applicant qualifies for exemption under section 42-225, the applicant for a development permit shall submit, along with the application, proof that sufficient capacity exists as demonstrated by one or more of the following:

a. If the service provider is other than an on-site potable water well, including, but not limited to, the City of Perry, Keaton Beach, Steinhatchee or Taylor Beaches Community Potable Water Systems, assurance will be required from the service provider that the project is within its service area and that it has the capacity to serve the project as proposed, at or above the adopted level of service standard. If the ability of a service provider to serve a proposed project is contingent upon planned facility expansion, details regarding such planned improvements shall also be submitted. Prior to the issuance of a final development order by the county, the applicant may be required to provide evidence of a contract with the service provider, indicating the provider's commitment and ability to serve the proposed project.

b. If the service provider is an on-site well system:

1. Permits issued by Suwannee River Water Management District (SRWMD), pursuant to F.A.C. ch. 40B-4 and F.A.C. ch. 17-2 for a water well to serve the development; and/or

2. Permits issued by the county public health unit.

(2) *Presumption of available capacity.* A presumption of available capacity shall be rendered by the planning director upon receipt of evidence as required by this section.

(LDC § 3.03.02(B))

Sec. 42-257. Wastewater.

The following applies to wastewater review:

(1) *Submittals.* The applicant for a development permit shall submit, along with the application, proof that sufficient capacity exists as demonstrated by one or more of the following:

a. If the proposed service provider is other than an on-site septic system, including, but not limited to, package plants and/or the City of Perry, assurance will be provided from the provider that the project is within its service area and that it has the capacity to serve the project as proposed, at or above the adopted level of service standard. If the ability of a provider to serve a proposed project is contingent upon planned facility expansion, details regarding such planned improvements shall also be submitted. Prior to the issuance of a final development order by the county, the applicant may be required to provide evidence of a contract with the service provider indicating the provider's commitment and ability to serve the proposed project;

b. If the service provider is an on-site system:

1. All applicable state permits for an on-site disposal system are obtained; and/or

2. All applicable department of environmental protection permits for wastewater facilities are obtained.

(2) *Presumption of available capacity.* A presumption of available capacity shall be rendered by the planning director upon receipt of one or more pieces of evidence as set forth in this section.

(LDC § 3.03.02)

Sec. 42-258. Drainage.

The following applies to drainage review:

(1) *Submittals.* The applicant for a development permit shall submit, along with the application, proof that sufficient capacity exists as demonstrated by one or more of the following which are applicable to the development:

a. All applicable department of environmental protection permits for stormwater management systems are obtained; and

b. All applicable department of transportation permits for drainage connections and all applicable permits issued by the Suwannee River Water Management District pursuant to F.S. §§ 373.451--373.4595 and F.A.C. ch. 40B-4 are obtained.

(2) *Presumption of available capacity.* Capacity for single-family dwellings shall be presumed to be available. For all other development, a presumption of available capacity shall be rendered by the planning director upon receipt of the applicable department of environmental protection, department of transportation and Suwannee River Water Management District permits.

(LDC § 3.03.02(D))

Sec. 42-259. Solid waste.

The following applies to solid waste review:

(1) Based on the data and analysis contained in the county comprehensive plan, adequate capacity exists for estimated demand for solid waste services through 1991, by which time a regional landfill will be on-line. This regional landfill is being developed pursuant to a department of environmental protection order for a regional landfill for Taylor, Jefferson, Madison and Dixie Counties, as well as county Ordinance No. 90-8.

(2) Therefore a presumption of available capacity shall be rendered by the planning director to all developments for the period beginning September 21, 1990, until the submission of the first

concurrency management system annual report or the commencement of operations at the regional landfill, whichever comes first.

(3) At such time, the available capacity for solid waste shall be reassessed, and a determination made as to whether the presumption of available capacity is to be continued.

(LDC § 3.03.02)

Cross references: Solid waste, ch. 62.

Sec. 42-260. Recreation and open space.

The following applies to recreation and open space review:

(1) *Submittals.* Except in the case of plan amendments, no submittals shall be required.

(2) *Countywide presumption of available capacity.* Based on the data and analysis which supports the county comprehensive plan, adequate capacity exists for estimated demand for park and open space facilities, including those for activity and resource-based activities, through the planning period (1990--1995). Therefore, a presumption of available capacity shall be rendered by the planning director for all development for the period beginning October 1, 1990 through the submission of the first concurrency management system annual report. At such time, the available capacity for park and open space facilities shall be reassessed and a determination made as to whether the presumption of available capacity is to be continued.

(LDC § 3.03.02(F))

Cross references: Parks and recreation, ch. 54.

Secs. 42-261--42-270. Reserved.

DIVISION 3. PROPORTIONATE FAIR-SHARE TRANSPORTATION PROGRAM*

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***Cross references:** Road concurrency, § 42-255.

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Sec. 42-271. Purpose and intent.

The purpose of this section 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 transportation program, as required by and in a manner consistent with F.S. § 163.3180(16).

(Ord. No. 2006-20, § 1, 11-28-2006)

Sec. 42-272. Applicability.

The proportionate fair-share transportation program shall apply to all developments in the county that have been notified of a lack of capacity to satisfy transportation concurrency on a transportation facility in the county concurrency management system, including transportation facilities maintained by Florida Department of Transportation or another jurisdiction that are relied upon for concurrency determinations, pursuant to the concurrency requirements of this article of the land development code. The proportionate fair-Share transportation program does not apply to developments of regional impact using proportionate fair-share under F.S. § 163.3180(12), or to developments exempted from concurrency as provided in the comprehensive plan and this article of the land development code, and/or F.S. § 163.3180, regarding exceptions and de minimis impacts.

(Ord. No. 2006-20, § 1, 11-28-2006)

Sec. 42-273. General requirements.

(a) An applicant may choose to satisfy the transportation concurrency requirements of the county 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; and

(2) The five-year schedule of capital improvements in the capital improvements element of the comprehensive plan or the long-term schedule of capital improvements for an adopted long-term concurrency management system includes a transportation improvement(s) that, upon completion, will satisfy the requirements of the concurrency management system. The provisions of paragraph (b) of this general requirements subsection herein may apply if a project or projects needed to satisfy concurrency are not presently contained within the capital improvements element of the comprehensive plan or an adopted long-term schedule of capital improvements for an adopted long-term concurrency management system.

(b) The county may choose to allow an applicant to satisfy transportation concurrency through the proportionate fair-share transportation program by contributing to an improvement that, upon

completion, will satisfy the requirements of the concurrency management system, but is not contained in the five-year schedule of capital improvements in the capital improvements element or a long-term schedule of capital improvements for an adopted long-term concurrency management system, where the following apply:

(1) The county adopts, by resolution, a commitment to add the improvement to the five-year schedule of capital improvements in the capital improvements element of the comprehensive plan or long-term schedule of capital improvements for an adopted long-term concurrency management system no later than the next regularly scheduled annual capital improvements element update. To qualify for consideration under this section, the proposed improvement must be reviewed by the local planning agency, 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 section. Financial feasibility for this section means that additional contributions, payments or funding sources are reasonably anticipated during a period not to exceed ten (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 capital improvements element of the comprehensive plan are insufficient to fully fund construction of a transportation improvement required by the concurrency management system, the county 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 (1) 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 schedule of capital improvements in the capital improvements element of the comprehensive plan or the long-term schedule of capital improvements for an adopted long-term schedule of capital improvements for an adopted long-term concurrency management system at the next regularly scheduled annual capital improvements element of the comprehensive plan update.

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

(Ord. No. 2006-20, § 1, 11-28-2006)

Sec. 42-274. Intergovernmental coordination.

Pursuant to policies in the intergovernmental coordination element of the comprehensive plan and applicable policies in the north central florida strategic regional policy plan, the county shall

coordinate with affected jurisdictions, including Florida Department of Transportation, regarding mitigation to impacted facilities not under the jurisdiction of the county. An interlocal agreement may be established with other affected jurisdictions for this purpose.

(Ord. No. 2006-20, § 1, 11-28-2006)

Sec. 42-275. 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 transportation program pursuant to the requirements of this section.

(b) Prior to submitting an application for a proportionate fair-share agreement, a pre-application meeting shall be held to discuss eligibility, application submittal requirements, potential mitigation options, and related issues. If the impacted facility is on the strategic intermodal system, then the Florida Department of Transportation will be notified and invited to participate in the pre-application meeting.

(c) Eligible applicants shall submit an application to the county that includes an application fee, as established by a fee resolution, as amended, by the county, and the following:

(1) Name, address and telephone 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; and

(6) Description of requested proportionate fair-share mitigation method(s).

(d) The county shall review the application and certify that the application is sufficient and complete within thirty (30) calendar days. If an application is determined to be insufficient, incomplete or inconsistent with the general requirements of the proportionate fair-share transportation program as described in this section, then the applicant will be notified in writing of the reasons for such deficiencies within 30 calendar days of submittal of the application. If such deficiencies are not remedied by the applicant within 30 calendar days of receipt of the written notification, then the application will be deemed abandoned. The board of county commissioners may, in its discretion, grant an extension of time not to exceed 60 calendar 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 strategic intermodal system requires the concurrence of the Florida Department of Transportation. The applicant shall submit evidence of an agreement between the applicant and the Florida Department of Transportation for inclusion in the proportionate fair-share transportation 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 County and delivered to the appropriate parties for review, including a copy to the Florida Department of Transportation for any proposed proportionate fair-share mitigation on a strategic intermodal system facility, no later than 60 calendar days from the date at which the applicant received the notification of a sufficient application and no fewer than 15 calendar days prior to the board of county commissioners meeting when the agreement will be considered.

(g) The county shall notify the applicant regarding the date of the board of county commissioners meeting when the agreement will be considered for final approval. No proportionate fair-share agreement will be effective until approved by the board of county commissioners.

(Ord. No. 2006-20, § 1, 11-28-2006)

Sec. 42-276. 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.

(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:

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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

Proportionate Fair-Share = [[(Development Tripsi)/(SV Increasei)] × Costi]

Where:

TABLE INSET:

Development Trips i =	hose trips from the stage or phase of development under review that are assigned to roadway segment "T" and have triggered a deficiency per the concurrency management system;
SV Increase i =	Service volume increase provided by the eligible improvement to roadway segment "i" per section E;
Cost i =	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 county shall determine improvement costs based upon the actual cost of the improvement as obtained from the capital improvements element of the comprehensive plan, or the Florida Department of Transportation Work Program. Where such information is not available, improvement cost shall be determined using one of the following methods.

(1) An analysis by the county of costs by cross section type that incorporates data from recent projects and is updated annually and approved by the board of county commissioners. In order to accommodate increases in construction material costs, project costs shall be adjusted by the following inflation factor:

Costn = Cost0 × (1 + Cost_growth3yr)n

Where:

TABLE INSET:

Cost n =	The cost of the improvements in year n;
Cost 0 =	The cost of the improvement in the current year;
Cost_growth 3yr =	The growth rate of costs over the last three years;
n =	The number of years until the improvement is constructed.

The three-year growth rate is determined by the following formula:

Cost_growth3yr = [Cost_growth-1 + Cost_growth-2 + Cost_growth-3]/3

Where:

TABLE INSET:

Cost_growth 3yr =	The growth rate of costs over the last three years;
Cost_growth -1 =	The growth rate of costs in the previous year;
Cost_growth -2 =	The growth rate of costs two years prior;
Cost_growth -3 =	The growth rate of costs three years prior.

(2) The most recent Florida Department of Transportation*Transportation Costs* report, 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 Florida Department of Transportation Work Program shall be determined using this method in coordination with the Florida Department of Transportation.

(e) If the county 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 county 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 percent 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 county and at no expense to the county. 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 county at no expense to the county. If the estimated value of the right-of-way dedication proposed by the applicant is less than the county 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 Florida Department of Transportation for essential information about compliance with federal law and regulations.

(Ord. No. 2006-20, § 1, 11-28-2006)

Sec. 42-277. Proportionate fair-share agreements.

(a) Upon execution of a proportionate fair-share agreement the applicant shall receive county concurrency approval. Should the applicant fail to apply for a development permit within 12 months of the execution of the proportionate fair-share agreement, then the proportionate fair-share 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 non-refundable. If the payment is submitted more than 12 months after 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 the determining proportionate fair-share obligation subsection herein and adjusted accordingly.

(c) All developer improvements authorized under this section 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. Any required improvements shall be completed before issuance of building permits.

(d) Dedication of necessary right-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.

(f) Applicants may submit a letter to withdraw from the proportionate fair-share agreement at any time prior to the execution of the proportionate fair-share agreement. The application fee and any associated advertising costs to the county are non-refundable.

(Ord. No. 2006-20, § 1, 11-28-2006)

Sec. 42-278. 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 capital improvements element of the comprehensive plan, or as otherwise established in the terms of the proportionate fair-share agreement. At the discretion of the board of county commissioners, 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 50 percent local match for funding under the Florida Department of Transportation's Transportation Regional Incentive Program.

(b) In the event a scheduled facility improvement is removed from the capital improvements element of the comprehensive plan, 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 this section.

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, and then the county 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 Florida Department of Transportation's Transportation Regional Incentive Program. Such coordination shall be ratified by the board of county commissioners through an interlocal agreement that establishes a procedure for earmarking of the developer contributions for this purpose.

(Ord. No. 2006-20, § 1, 11-28-2006)

Secs. 42-279--42-290. Reserved.