

ARTICLE IV.

CONCURRENCY MANAGEMENT*

* **State Law References:** Concurrency, F.S. § 163.3202(2)(g).

Sec. 62-601. Exemptions.

- (a) The construction of public transportation, potable water, sanitary sewer, solid waste, drainage, and parks and recreation facilities or any development or construction project which provides for the public health, safety or welfare shall be exempt from the provisions of this article.
- (b) Permits for accessory structures to established principal land uses where such accessory structures will not result in increased impacts shall also be exempt from the provisions of this article.
- (c) Any development order approved pursuant to a county development agreement wherein it is stated that the project's development order is exempt from this article shall state the specific provisions of this article from which it is exempt.

(Code 1979, § 14-69(e))

Sec. 62-602. Concurrency evaluation procedure.

- (a) *Purpose of concurrency evaluation.* The concurrency evaluation system shall measure the potential impact of any development permit proposal upon the established minimum acceptable level of service for a roadway, solid waste, potable water, drainage, sanitary sewer or park facility or service. The most current available information and data regarding such public facilities' or services' operating levels of service shall be utilized for concurrency evaluations. Any party pursuing approval of a site plan, subdivision plat or building permit shall submit a valid concurrency evaluation, approved by the director of the planning and development services department or his designee, along with the application for development permit approval. No final development permit shall be approved unless adequate facilities are available as determined by the concurrency evaluation. A preliminary concurrency evaluation shall be performed on zoning actions.
- (b) *Preliminary evaluation prior to zoning action.* For review of zoning applications, a preliminary concurrency evaluation shall be completed as part of the zoning review process to illustrate the relationship between the proposal and the availability of services and facilities for the planning and zoning board and the board of county commissioners. This review will be based on the information described in the zoning application. The results of this preliminary review are for the use of the zoning division in its review of the zoning application.
- (c) *Application for evaluation prior to application for site plan, subdivision plat or building permit approval.* Any party requesting a concurrency evaluation shall submit the following information to the planning and development services department, on a form provided by the county, and pay a fee established by resolution by the board of county commissioners, which may be amended from time to time:
 - (1) The owner's name, address and telephone number.
 - (2) The applicant's name, address and telephone number.

- (3) A legal description of the property.
- (4) The size of the property in acres.
- (5) A capacity certificate from the county utilities department, or from a service provider other than the county for water and sewer service, as applicable. The certificate shall state that adequate capacity is available for the applicable service to support the project based on the county's applicable level of service as defined in subsections (d)(2)b and (d)(3)b of this section. The certificate shall also state the total capacity needs of the project. If capacity is reserved, the certificate shall state the length of time for which capacity is reserved and provide beginning and ending dates for such reservation.
- (6) The specific use or uses.
- (7) The square footage or number of units of each use.
- (8) If a subdivision, the number and type of units for each phase.

Any application for a development permit must be consistent with the information on which the concurrency evaluation was based. If the applicant increases the intensity or density of the development proposal during any stage in the development approval process, a new concurrency evaluation will be required.

- (d) *Criteria for evaluation.* The following criteria, utilizing best evaluation practices, shall be used to determine whether levels of service of the various facilities and services are adequate to support the specific impacts of the proposed development:

- (1) *Transportation facilities.*

- a. The transportation facilities shall be evaluated using maximum acceptable volume as determined by methodology based on the 1985 Highway Capacity Manual, as amended.
- b. Properties served by local roadways located within a recorded subdivision plat shall be evaluated for impact on the affected arterial, collector or intraurban segment as identified by the county's concurrency evaluation system, using best evaluation practices as approved by the board of county commissioners.
- c. The impact of the proposed development on the transportation system shall be determined by utilizing the trip generation data set forth in the most recent available edition of the ITE Trip Generation Manual, and the development shall be evaluated for its impact to the appropriate arterial, collector or intraurban roadways in the county. An applicant may supply for consideration alternative data for affected roadways or data for the potential impacts of the development. Also, the county reserves the right to require additional traffic impact studies as they relate to an applicant's proposed project where the applicant has supplied alternative data on the potential impact of a project. This data shall use established engineering practices and shall be certified by a registered engineer. The county shall maintain the option of accepting or rejecting any such alternative data. The estimated number of trips generated by the proposed development shall be subtracted

cumulatively from the available capacity on the affected roadways to determine whether the roadway's capacity is adequate to support the development based on the impacted roadway's level of service. The following level of service standards shall apply within the urban and rural area boundaries as defined by the state department of transportation:

Urban:	
State roads:	
Freeways and principal arterials	D
Intraurban arterials	E
County roads	E
Rural:	
State roads	C
County roads	D

- d. For roadways where a traffic count does not exist, the county shall provide the count within ten working days.
- e. The calculation of total traffic generated by a proposed nonresidential or mixed use project will assume 100 percent build-out and occupancy of the project. Credit against the trip generation of nonresidential land uses may be taken utilizing the procedures outlined in the ITE Trip Generation Manual, most recent edition. For mixed use development, any trips that will be absorbed internally by the project shall be stated and justified by the applicant. The procedures outlined in the ITE Trip Generation Manual, most recent edition, can be used to quantify pass-by trips.

(2) *Sanitary sewer facilities.*

- a. If the system is county operated, the county utilities services department shall determine capacity for sanitary sewer facilities by utilizing the existing capacity, which shall be determined by subtracting the committed capacity and present flow from the design capacity of the facilities. The county utilities department or other service providers shall issue a capacity certificate or its equivalent pursuant to subsection (c)(5) of this section and all other applicable sections of this Code.
- b. The impact on the treatment plant shall be determined utilizing the county's level of service standards of 200 gallons per day per residential unit and 200 gallons per equivalent unit per day for nonresidential projects.
- c. Where septic tanks are to be utilized, the county consumer health services division shall utilize the standards of F.A.C. ch. 10D-6 to determine suitability. A certificate from the county consumer health division that certifies that the site is or can be made suitable for the use of an onsite sewage disposal system shall be required.

(3) *Potable water facilities.*

- a. If the system is county operated, the county utilities division shall determine capacity for potable water facilities by utilizing the existing applicable plant capacity, which shall be determined by subtracting the committed capacity and present flow from the design capacity of the facilities. The county utilities department or other service providers shall issue a capacity certificate or its

equivalent pursuant to subsection (c)(5) of this section and all other applicable sections of this Code.

- b. The impact on the treatment plant shall be determined utilizing the county's potable water level of service standards of 250 gallons per day for residential units and 200 gallons per equivalent unit per day for nonresidential projects.
- c. Where private wells are to be utilized, the standards of the St. Johns River Water Management District and other applicable state regulations shall be utilized.

(4) *Solid waste facilities.*

The impact on the solid waste facility shall be determined as the amount of solid waste estimated to be produced by the development according to the county's minimum acceptable level of service standard as established annually. Evaluations for impact on solid waste facilities shall be based on a comparison of the anticipated impact of the proposed development on the remaining capacity of the county landfill.

(5) *Parks and recreation.*

- a. Adequacy of public park and recreation facilities shall be based on the county's level of service standard of 1.20 total developed acres of neighborhood, community and urban district parks per 1,000 people within each planning area.
- b. The impact of proposed development shall be determined by a comparison of the projected population of the applicable planning area, including the potential increase in population due to the proposed development, to the total number of acres developed for neighborhood, community and urban district parks within the applicable planning area as shown on map 1 of the comprehensive plan. The average household size as maintained by the county research and cartography division shall be used to determine a residential project's potential population.
- c. If a development proposal provides for active recreational facilities as described in table 1, entitled "Recreational Site Development and Operational Guidelines," for neighborhood, community or urban district parks, adopted as part of the recreation and open space element of the comprehensive plan, the land area devoted to these facilities shall be utilized to determine the availability of parks and recreational facilities for the development pursuant to the acceptable level of service of 1.20 developed park acres per 1,000 population.

(6) *Drainage facilities.*

Adequacy of stormwater management facilities shall be determined at the time of engineering review based on the county's level of service standard as established in policy 3.1 of the surface water element of the county comprehensive plan.

(e) *Concurrency evaluation finding of deficiency.*

- (1) If the concurrency evaluation test finds that the development permit proposal will cause a deficiency of any public facility or service serving the proposed development site for which a minimum acceptable level of service has been established, or through updating or revising data for these public facilities and services the county determines that there is a deficiency, the county reserves the authority to deny or defer a development proposal, to cause a development permit proposal to be modified to achieve consistency with the minimum acceptable levels of service, or to process a proposal as a conditional development permit pursuant to section 62-604.
- (2) When the impact evaluation of a development permit proposal indicates that its approval will cause a deficiency in any concurrency-related public facility or service necessary to adequately serve the proposed development, the following steps shall be taken:
 - a. The identified facility or service for which a deficiency is predicted shall undergo an extended analysis by the responsible agency within 30 days to ensure the deficiency conclusion was based on best evaluation practices; and
 - b. The applicant may utilize the options described in subsection (d)(1)c of this section, where an applicant may submit to the county an alternative analysis of capacity status and the proposal's projected impact upon that facility or service. This data shall use established engineering standards and practices, and the results shall be certified for and in favor of the county by a registered engineer. The county shall maintain the option of accepting or rejecting any such alternative analyses; or
 - c. The applicant may elect to reduce the impact of the development permit proposal to such a level that no deficiencies would be created; or
 - d. The applicant may choose to make necessary improvements to the facility which would provide adequate capacity to accommodate the project; or
 - e. If subsections (e)(2)a through (e)(2)d of this section prove insufficient or unattainable, at the applicant's option a portion of the development proposal may be conditionally approved based upon available facility and service capacities. The remainder of the development shall be deferred to a time determined by the process set forth in subsections (e)(3) and (4) of this section.
 - f. The applicant may employ a combination of the remedies given in subsections (e)(2)a through (e)(2)e of this section.
 - g. If subsections (e)(2)a through (e)(2)e of this section prove insufficient to resolve the impact issue, the applicant may petition the board of county commissioners to include the appropriate facility improvements in the county capital improvements schedule as described in section 62-604.
- (3) When a concurrency facility or service has been found to be lacking in available service capacity pursuant to the acceptable levels of service standards set forth in the county comprehensive plan, the staff will prepare a document to be considered at a public hearing by the board of county commissioners, which shall establish a moratorium for a sufficient

period of time to permit the scheduling of the necessary deficiency-remedying improvements into the capital improvements program, financial feasibility permitting.

- (4) If the concurrency evaluation finds that a development permit proposal will cause a deficiency of any public facility or service serving the proposed development, the applicant may pay a fee to reserve priority over subsequent applications, which are served by the same facility or service for a period of one year. When adequate capacity for the deficient facility or service becomes available, those applications with the highest priority, which have maintained a reservation, shall receive notification from the county of the approval date of their concurrency evaluation.
 - (5) When an applicant's reserved priority becomes available and the proposal receives its concurrency approval, the applicant's approved concurrency evaluation shall be valid for six months, subject to the timeframes defined in subsection (f) of this section.
- (f) *Concurrency evaluation finding of nondeficiency.* A finding of nondeficiency by a concurrency evaluation shall remain valid provided the application for development permit approval is submitted within six months after the date of the results of the concurrency evaluation, with the exception of single-family residences, which shall be governed by the standards of section 62-604. Once the application has been officially received by the land development division, the following prescribed timeframes shall apply:
- (1) For applicants opting to vest a site development plan approval, the finding shall remain valid up to nine months from the date of the concurrency evaluation in order to allow the appropriate amount of time for review and completion of the site planning process. Upon approval of a site plan, the concurrency finding of nondeficiency shall remain valid for a period not to exceed up to 12 months from the date of the concurrency evaluation. In order to maintain the original vesting, the building permit must be pulled within this 12-month period.
 - (2) For a residential subdivision, or phase or unit thereof, including residential subdivision phases of a planned unit development, the finding shall remain valid 12 months from the date of the concurrency evaluation in order to allow the appropriate amount of time for review and completion of the subdivision review process. Upon approval of a subdivision, the concurrency finding of nondeficiency shall remain valid for a period not to exceed 36 months from the date of the construction permits approval, providing the work authorized proceeds in a timely manner as prescribed by the county. The subdivision finding may be renewed once for a period of time not to exceed 24 months if renewal is requested prior to expiration of the concurrency finding. Immediately prior to a renewal there must be a three-month waiting period from the time of expiration where the capacity not used by the subdivision is made available for the approval of other development. Any renewal will follow the concurrency evaluation criteria as defined in subsection (d) of this section.
 - (3) A three-month extension of a finding of nondeficiency for site plans and subdivisions that have been submitted to the land development division for review may be approved by the land development division director. This may be permitted only during that period of time where the proposed project is under active review by the land development division and where the applicant has made timely applications, if required, to the St. Johns Water Management District, the state department of natural resources, the state department of

environmental regulation or other permitting agency, but has not received approval from such agency by the end of the time allowed in this article according to subsections (f)(1) and (2) of this section for the county's subdivision or site plan review. Should an additional three-month extension be necessary, such extension must meet the same criteria given for the first three-month extension; however, the second extension shall be approved only by the board of county commissioners. The applicant shall be limited to a total of two extensions as set out in this subsection, with the first granted by the land development division director and the second by the board of county commissioners. Timely application shall be defined for purposes of this section as an application made within 30 days of site development plan submittal or subdivision submittal. The applicant shall be responsible for requesting any extensions provided for under this section, and shall also be required to show proof of eligibility for exemption by submitting to the land development division a copy of the application to a permitting agency for verification.

- (4) For an individual single-family lot or parcel, the building permit must be obtained within 24 months of the date of the finding of nondeficiency, and work authorized must proceed in a timely manner pursuant to the Standard Building Code. Lots included within subdivisions which have not passed a concurrency evaluation, or where the concurrency evaluation and vesting period have expired, are included in this category.
- (5) For the purpose of approving a final development order, subject to the restrictions in subsection (f)(6) of this section, property owners shall have the option of pursuing a development agreement with the county as provided for in section 62-605. A concurrency evaluation shall be conducted as a component of a development agreement, and if concurrency is found or guaranteed the timeframe for the finding's validity shall be set forth in the agreement.
- (6) For site plans and subdivisions, the vesting provisions of subsections (f)(1) through (5) of this section shall apply only in the following circumstances:
 - a. *Threshold capacity.* The vesting periods described in this subsections (f)(1) through (5) of this section shall be available only where the levels of service are at or below the following levels:
 1. *Road capacity.* The affected roads are operating or committed at a level equal to or less than 85 percent of the acceptable level of service.
 2. *Sewer.* The appropriate sewer facilities are operating or committed at a level equal to or less than 85 percent of the existing plant capacity as determined by the service provider or appropriate authority.
 3. *Water.* The existing plant is operating or committed at a level equal to or less than 85 percent of the existing plant capacity as determined by the service provider or appropriate authority.
 4. *Parks.* The area available for parks is equal to or greater than 1.40 acres for every 1,000 persons.
 5. *Solid waste.* The appropriate solid waste facility is committed at a level equal to or less than 85 percent of the existing capacity.

For the purposes of this section, committed capacity shall mean those capacities reserved for a development project pursuant to any provision of this article. Determination of committed and available capacity shall be the responsibility of the appropriate authority as described in subsections (d)(1) through (6) of this section.

- b. *Maximum capacity allotment.* In addition to the threshold capacity restrictions described in subsection (f)(6)a of this section, a site plan or subdivision shall be allotted no more than 25 percent of the remaining capacity of a facility. Project size shall be determined utilizing the most restrictive of the facilities named in subsection (f)(6)a of this section. No more than one phase shall be approved for development until 50 percent of the residential lots or units or commercial projects approved for that phase have been sold or developed.
- c. *Development agreement to allow vesting.* A project or phase requiring services or facility capacity in excess of the maximum capacity allotment stated in subsection (f)(6)a or (f)(6)b of this section or seeking to extend the vesting period for a finding of nondeficiency beyond the limits stated in this section may have the option of entering into a development agreement with the county as provided in section 62-605 to provide for these services or for extended vesting. Projects or phases in which the threshold capacity will be exceeded may also have the option of entering into a development agreement as described in section 62-605.
- (g) *Expiration of finding of nondeficiency.* Where any of the applicable timeframes, as set forth in subsection (f) of this section, for a particular project expire, a new concurrency evaluation shall be required prior to application for the next development permit. Any vesting period relating to concurrency may be considered void if the applicant fails to perform in fulfilling all requirements to keep the vesting current, including the payment of all fees pursuant to a capacity reservation for a particular service. If the applicant maintains a capacity reservation for a particular service, the expiration of the concurrency evaluation finding of nondeficiency shall not nullify such capacity reservations.
- (h) *Cumulative records of level of service.* The concurrency evaluation system shall maintain a cumulative record of the level of service allocations permitted by the approval of development permits relative to the operating levels of service for all applicable public facilities and services which have established minimum acceptable levels of service as described in subsection (f)(6)a of this section. The county shall make these records available at all of the county service complexes to inform the general public as to the status of all of the public facilities and services which are required to be monitored for concurrency.
- (i) *Re-evaluation of a congested roadway segment for substantial traffic count decreases.* When a congested roadway segment's traffic count volume reveals a substantial decrease, as compared to that segment's current traffic volume, the roadway segment shall undergo a re-count and an extended analysis by the responsible agency within six months to ensure the accuracy of the current traffic volume. For the purpose of this section, a congested roadway segment is defined as a roadway segment, which has a current volume of greater than 85 percent of the segment's maximum acceptable volume and a substantial decrease is defined as a decrease on a congested roadway segment, which reveals a reduction in volume by ten percent or more or reduces the traffic volume below 85 percent of the

segment's maximum acceptable volume. Where a re-count and an extended analysis is required, the previous current traffic volume of a roadway segment shall be utilized until the conclusion of the analysis.

(Code 1979, § 14-69(a); Ord. No. 2003-20, §§ 1, 2, 5-20-03)

Sec. 62-603. Operating procedures, systems and tasks.

- (a) *Monitoring procedures.* The county shall maintain written or computerized records of all capacity or volumes which are committed for developments as a result of development permits issued by the county. Where another jurisdiction provides services to a project in the unincorporated area of the county, the county shall require that the appropriate information regarding those services be provided to the county prior to completing a concurrency evaluation.
- (b) *Measurement of potential impacts.* For purposes of measuring the potential impact of a project, all previously committed volumes and capacities shall be taken into account cumulatively and compared to the level of service and total available capacity or volume, as appropriate.

(Code 1979, § 14-69(b))

Sec. 62-604. Conditional approval of development orders.

The county may conditionally approve a development permit pursuant to the following criteria if the concurrency evaluation test indicates that the potential impact of a site development plan, subdivision or building development permit will cause a deficiency to occur to an established minimum acceptable level of service:

- (1) *Subdivision plats and site plans.* Subdivision plats and site plans may be approved if a deficient public facility improvement based on the established acceptable levels of service is contained in the county annual capital improvements schedule, the county capital improvements program schedule, or the first three-year schedule of the capital improvements programs of other governmental agencies, and the improvement will provide a level of service sufficient to accommodate the potential impact of the proposed development.
- (2) *Building permits.*
 - a. Building permits may be approved if construction of a necessary public facility improvement based on the acceptable levels of service is budgeted in the annual capital improvements budget, or is under binding contract for construction, is under another binding financial commitment mechanism, or is already under construction, and the improvement will provide a level of service sufficient to accommodate the potential impact of the proposed development.
 - b. Building permits may be approved if the developer agrees to construct all improvements necessary to accommodate the impacts of the proposed development.

- c. Building permits may be approved if the applicable impact fees or "fees-in-lieu-of" which relate to the specific public facility improvements necessary to accommodate the impacts of the permit are scheduled within the capital improvements program and are paid.
- d. To obtain the benefit of section 62-602(f), all fees shall be paid prior to the issuance of a building permit, notwithstanding the payment time specified in article V of this chapter or any other ordinances.
- e. For review of zoning applications, the preliminary concurrency evaluation shall be used for general information purposes only as part of the zoning review. Subsequent to the approval of a zoning application, a formal concurrency evaluation prior to site plan, subdivision plat or building permit approval shall be required.

(Code 1979, § 14-69(c))

Sec. 62-605. Development agreements.

- (a) *Application.* Requirements for a development agreement application are as follows:
 - (1) A legal description of the land subject to the agreement, and the names of its legal and equitable owners.
 - (2) The duration of the agreement.
 - (3) The development uses permitted on the land, including population densities and building intensities and height.
 - (4) A description of public facilities that will service the development, including the name of the person who shall provide such facilities; the date any new facilities, if needed, will be constructed; and a schedule to ensure public facilities are available concurrent with the impacts of development.
 - (5) A description of the level of service allocations to be permitted by the development agreement.
 - (6) A description of any reservation or dedication of land for public purposes.
 - (7) A description of all local development permits approved or needed to be approved for the development of the land.
 - (8) A finding that the development permitted or proposed is consistent with the county comprehensive plan and land development regulations.
 - (9) A description of any conditions, terms, restrictions or other requirements determined to be necessary by the county for the public health, safety or welfare of its citizens.
 - (10) A statement indicating that the failure of the agreement to address a particular permit, condition, term or restriction shall not relieve the developer of the necessity of complying with the law governing such permitting requirements, conditions, terms or restrictions.

- (11) Identification of the specific dates that define the development's phasing, if applicable, and the commencement and completion of construction in each phase.
 - (12) A description of the applicant's commitment for providing capacity or its equivalent on the affected facilities which the applicant will be consuming in excess of the amount otherwise authorized by this article.
- (b) *Recording.* The county shall record the agreement with the clerk of the circuit court within 14 days of its approval or execution.
- (c) *Applicability of subsequently adopted county laws or policies.* The laws and policies governing the development of the land at the time of the execution of the development agreement shall govern the development of the land for the duration of the development agreement. The county may apply subsequently adopted laws and policies to a development that is subject to a development agreement only if the county has held a public hearing and determined that:
- (1) They are not in conflict with the laws and policies governing the development agreement and do not prevent development of the land uses, intensities or densities in the development agreement;
 - (2) They are essential to the public health, safety or welfare, and expressly state that they shall apply to a development that is subject to a development agreement;
 - (3) They are specifically anticipated and provided for in the development agreement;
 - (4) The county demonstrates that substantial changes have occurred in pertinent conditions existing at the time of approval of the development agreement; or
 - (5) The development agreement is based on substantially inaccurate information supplied by the developer.
- (d) *Applicability of subsequently adopted state or federal laws.* If state or federal laws are enacted after the execution of the agreement which are applicable to or preclude the parties' compliance with the terms of the agreement, the agreement shall be modified or revoked as necessary to comply with the relevant state or federal laws.
- (e) *Periodic review of compliance.* The land subject to a development agreement shall be reviewed by the county at 12-month intervals following the date of the agreement. If demonstrated good faith compliance is not found, the agreement shall be revoked or modified by the county.
- (f) *Duration.* The duration shall not exceed five years, unless extended by mutual agreement according to prescribed due process.

(Code 1979, § 14-69(d))

State Law References: Development agreements, F.S. § 163.3220 et seq.

Sec. 62-606. Developments of regional impact.

- (a) All developments of regional impact shall undergo a preliminary concurrency evaluation as part of staff review prior to the issuance of the development of regional impact (DRI) development order. The DRI development order, where it includes references to schedules of improvements required to be installed prior to the continuance of the project based upon a monitoring program, shall be written in a manner consistent with the county comprehensive plan and this article with respect to acceptable levels of service, service areas, roadway segments or intersections, or other related factors.
- (b) Where the monitoring program included in the DRI development order of a development of regional impact makes reference to a level of service measurement, such measurement shall take into account the impacts of other applicable development orders that have been issued by the county but which otherwise may not be revealed by the level of service measurement.
- (c) Each subsequent development order for a site plan, subdivision or building permit approval which will be located within the development of regional impact final development order shall also undergo a concurrency evaluation for monitoring. Should a concurrency evaluation for a final development order show that the level of service of a facility affected by the development of regional impact is deteriorating at a faster rate than what was projected by the development of regional impact development order, the county shall suspend the further issuance of development orders if a deficiency occurs until the necessary improvements are committed, even where such action would cause the schedule of improvements approved as part of the initial DRI development order to be accelerated.
- (d) Developments of regional impact approved by the board of county commissioners prior to April 7, 1989, shall be exempt from the provisions of this article; however, any amendments to previously exempted developments of regional impact shall not be exempted.

(Code 1979, § 14-69(f))

State Law References: Developments of regional impact, F.S. § 380.06.

Secs. 62-607--62-700. Reserved.