

*Draft* **CONCURRENCY MANAGEMENT ELEMENT  
GOALS, OBJECTIVES, & POLICIES**

Staff is coordinating a regional meeting with the counties of Seminole, Orange, Osceola and the East Central Florida Regional Planning Council to discuss methodologies, structure, and regional perspectives on the most efficient manner to develop and implement a concurrency management system especially as a result of the recently adopted Senate Bill 360.

**GOAL CME 1**

Lake County shall assure that adequate public facilities and services are available concurrent with the impacts of development.

**OBJECTIVE CME 1.1**

Lake County will maintain its Concurrency Management System and Land Development Regulations to manage its fiscal resources and land development process in such a manner as to provide or require the provision of needed capital improvements for future development and for needs created by previously issued development orders.

**Policy CME 1.1-1      Concurrency Management System Monitoring Program**

The Concurrency Management System shall maintain a monitoring program to enable the County to determine whether it is adhering to the adopted level of service standards and its schedule of capital improvements

**Policy CME 1.1-2      Precedence of 2025 Comprehensive Plan**

During the interim period when the provisions of the most recently adopted comprehensive plan, or element or portion thereof, and the land development regulations are inconsistent, the provisions of the most recently adopted comprehensive plan, or element or portion thereof, shall govern any action taken in regard to an application for a development order.

**Policy CME 1.1-3      Vested Project Capital Improvements**

Capital improvements that are needed to improve deficient facilities due to vested project development will receive priority funding in the next annual update of the Capital Improvements Element if the needed improvement was not required as a part of the vested project's development order.

**Policy CME 1.1-4      Vesting of Developments**

Pursuant to Chapter 163.3167(8) F.S., developments as defined in Chapter I, 1.02.00, Lake County Land Development Regulations (LDR), are vested for consistency with the Comprehensive Policy Plan, and developments defined in Chapter V, 5.03.00, Lake County LDR, are vested for concurrency.

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**Policy CME 1.1-5     Schedule of Roadway Improvements**  
Lake County shall use the Long Range Transportation Plan, adopted as part of the Transportation Element, as a ten (10) year schedule of roadway improvements and update it annually.

**Policy CME 1.1-6     Transportation Concurrency Management System**  
Lake County will explore the feasibility of implementing a long-term Transportation Concurrency Management System consistent with Transportation Policy 1.6-1.

**Policy CME 1.1-7     Concurrency Requirements**  
The Board of County Commissioners of Lake County finds that the impacts of development on public facilities within the County occur concurrent with development authorized by a final development order. Therefore, capacity for Category A facilities and services shall be available concurrent with the impacts of development. The County shall determine, prior to the issuance of development orders, whether or not there is sufficient capacity of Category A public facilities to meet the standards for levels of service for existing population and development and the proposed development concurrent with the impacts of the proposed development. For the purpose of this policy, "concurrent with" shall be defined as follows:

No final development order shall be issued by the County unless there shall be sufficient capacity of Category A public facilities to meet the standards for levels of service for the existing population and for proposed development according to the following deadlines:

**1. Potable Water, Sanitary Sewer, Solid Waste, and Stormwater Management.**

To satisfy concurrency requirements, capacities for water, sewer, solid waste and stormwater management must comply with adopted level of service standards according to one of the following timeframes established during the concurrency determination stage of the development review process:

- a. Facilities and services are in place prior to the issuance of a building permit.
- b. A development permit is issued subject to the condition that the necessary facilities and services will be in place at the time the impacts of the development occur. Such conditions shall be stipulated within an enforceable development agreement or a binding contract that guarantees the completion of construction prior to the issuance of a certificate of occupancy. A development shall place no impact on facility capacity until such a certification is issued.
- c. The necessary facilities are under construction at the time a permit is issued. Such facilities shall be completed prior to the impacts of development. A certificate of

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occupancy shall not be issued until such facilities or services are able to perform in a manner consistent with adopted level of service standards.

d. Facilities and services are guaranteed in an enforceable development agreement that assures facilities and services are in place concurrent with the impacts of development.

**2. Roads.** For road facilities the concurrency requirement shall be satisfied through one of the following actions approved by Lake County during the development review process:

a. Satisfy one of the four criteria stipulated in Subsections 1a-1d (see above) of this policy; or

b. Prior to the issuance of a development permit, necessary improvements are programmed within the first three years of the current Five-Year Schedule of Capital Improvements provided that each of the following conditions is met:

(1) The Five-Year Capital Improvements Program and the Capital Improvements Element of the Lake County Comprehensive Plan are financially feasible. As permitted by Section 9J-5.0055 (2)(c)1., F.A.C., concurrency determinations will include transportation projects included in the first three years of the Florida Department of Transportation Five-Year Work Program.

(2) The Five-Year Capital Improvements Program includes improvements necessary to correct any identified facility deficiencies and maintain adopted levels of service for existing and permitted development.

(3) The Five-Year Capital Improvements Program is a realistic, financially feasible program based on currently available revenue sources and development orders will only be issued if the public facilities necessary to serve the development are available or included in the Five-Year Schedule of Capital Improvements.

(4) The Five-Year Schedule of Capital Improvements identifies whether funding is for design, engineering, consultant fees, or construction and indicates, by fiscal year, how the dollars will be allocated.

(5) The Five-Year Schedule of Capital Improvements identifies the year in which actual construction of roadway projects will occur and only those projects scheduled for construction within the first three years of the Lake County or Florida Department of Transportation five-year programs will be utilized for concurrency determination.

(6) A Plan amendment will be required in order to eliminate, defer or delay construction of any roadway which is needed to maintain the adopted level of service standard.

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(7) Land Development Regulations will support this plan and further ensure that development orders and permits will only be issued when public facilities and services at adopted levels of service are available concurrent with the impacts of development.

(8) Lake County shall establish a monitoring system to determine whether impacts of development have been managed in accordance to adopted level of service standards and whether improvements are implemented consistent with the Five-Year Schedule of Capital Improvements. Such a monitoring system shall utilize on-going computer-oriented programs and standard accounting practices to evaluate and record the most recent condition of levels of service, available capacities, reservation of capacities, and timing of capital improvements.

(9) The Lake County Comprehensive Plan clearly identifies those areas in which facilities and services will be provided by the County through the use of public funds in accordance with the adopted Five-Year Schedule of Capital Improvements.

**3. Parks and Recreation.** For park and recreation facilities and services, the concurrency requirement shall be satisfied through one of the following actions approved by Lake County during the development review process:

a. Satisfy one of the four requirements stipulated in Subsection (1) (a-d) of this policy; or

b. Prior to the issuance of a building permit, recreation facilities and services are the subject of a binding executed contract or guaranteed in an enforceable development agreement which provides for the commencement of the actual construction of the required recreation facilities or provision of services within one year of the issuance of a building permit. Such a contract or agreement shall stipulate that facilities or services shall be available for active use within one year after construction commences.

**Policy CME 1.1.8 Determination of Capacity for Preliminary Development Orders.**

The capacity of public facilities shall be determined for preliminary development orders at the time an applicant of a development order requests a determination of such capacity as part of the review and approval of the preliminary development order provided that:

1. The determination that such capacity is available shall apply only to specific uses, densities and intensities based on information provided by the applicant and included in the development order, and

2. The determination that such capacity is available shall be valid for the same period of time as the underlying development order, including any extension of the underlying

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development order. If the underlying development order does not have an expiration date, the capacity shall be valid for a period:

a. not to exceed three years, or

b. any period of time acceptable to the County and the applicant, provided that the period of time is explicitly set forth in an enforceable development agreement as authorized by Florida Statutes.

3. The determination that such capacity is available shall be binding on the County at such time as the applicant provides assurances, acceptable to the County in form and amount, to guarantee to the County the applicant's pro rata share of the County's financial obligation for public facilities which are constructed by the County for the benefit of the subject property.

a. The assurances to be provided by the applicant may include one or more of the following:

- (1). Prepayment of impact fees,
- (2). Prepayment of capacity connection charges,
- (3). Establishment of special assessment districts.

b. Whenever an applicant's pro rata share of a public facility is less than the full cost of the facility, the County shall do one of the following:

(1). Contract with the applicant for the full cost of the facility, including terms regarding reimbursement to the applicant for costs in excess of the applicant's pro rata share, or

(2). Obtain assurances similar to those in Subsection 1 from other sources,

or

(3). Amend this Comprehensive Plan to modify the adopted standard for the level of service so as to reduce the required facility to equal the applicant's needs. Such an amendment shall be consistent with procedures defined in Chapter 163.3187, Florida Statutes, and must be supported by data and analysis prepared within the Comprehensive Plan supporting documents. Level of service standards not compatible with State standards established for State roads must be coordinated with the Florida Department of Transportation and shall remain consistent with FDOT standards to the maximum extent allowed under the Florida Highway System Plan, Section 187.201 (State Comprehensive Plan), Florida Statutes, Chapter 163, Florida Statutes, and Chapter 9J-5, Florida Administrative Code. In the event the adopted level of service is not compatible with the level of service standards established by the Florida Department of Transportation, Lake County shall provide a justification in the data inventory and analysis document that supports its comprehensive plan.

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4. Public facilities which serve less than all of Lake County shall achieve and maintain the standard for levels of service within their assigned service area. No development order shall be issued in an assigned service area if the standard for levels of service are not achieved and maintained throughout the assigned service area for the following public facilities and assigned service areas:

a. Arterial and Collector Roads. All roads and road segments affected by the proposed development, according to the number of trips generated by the proposed development.

b. Stormwater Management Systems: Site Specific,

c. Potable Water Systems: Water Facility Service Area,

d. Sanitary Sewer Systems: Sewer Facility Service Area.

**Policy CME 1.1-8 Determination of Capacity for Final Development Orders**

An applicant of a development order may select to defer the concurrency test until a final development order review.

**OBJECTIVE 1.2: PROGRAMS TO ENSURE IMPLEMENTATION**

The following programs shall be implemented to ensure that the Goals, Objectives and Policies established in the Capital Improvements Element will be achieved or exceeded. Each implementation program will be adopted by ordinance or resolution, as appropriate for each implementation program.

**Policy CME 1.2-1: Review of Applications for Development Orders**

The County shall amend its Land Development Regulations to provide for a system of review of various applications for development orders which, if granted, would impact the levels of service of Category A public facilities. Such system of review shall assure that no final development order shall be issued which results in a reduction in the levels of service below the standards adopted in the Comprehensive Plan for Category A facilities. The Land Development Regulations shall include, at a minimum, the provisions of Policy 1.2-2. (subsections 1 and 2) in determining whether a development order can be issued.

The Land Development Regulations shall also address the circumstances under which public facilities may be provided by applicants for development orders. Applicants for development orders may offer to provide public facilities at the applicant's own expense in order to insure sufficient capacity of Category A public facilities. Development agreements may be established subject to the following requirements:

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1. An enforceable development agreement shall provide, at a minimum, a schedule for construction of the public facilities and mechanisms for monitoring to insure that the public facilities are completed concurrent with the impacts of the development, or the development will not be allowed to proceed.

2. Roadway facilities are contained in the Schedule of Capital Improvements of the Comprehensive Plan; or a plan amendment occurs in accordance to Chapter 163.3187, Florida Statutes, to revise data and analysis and update the Five-Year Schedule of Capital Improvements.

3. The development agreement is construed to be enforceable according to Sections 163.3220-163.3243, Florida Statutes.

**Policy CME 1.2-2 Concurrency Implementation and Monitoring System.**

The County shall establish and maintain Concurrency Implementation and Monitoring Systems. The systems shall consist of the following components:

**1. Annual Report.** The County will prepare an annual report on the capacity and levels of service of public facilities compared to the standards for levels of service adopted in the Comprehensive Plan for Category A facilities. The report shall summarize the actual capacity of public facilities, and forecast the capacity of public facilities for each of the five succeeding fiscal years. The forecast shall be based on the most recently updated Schedule of Capital Improvements in the Capital Improvements Element. The annual report shall demonstrate evidence of the capacity and levels of service of public facilities for the purpose of issuing development orders during the 12 months following completion of the annual report, subject to adjustments described in part B, below, for reservation of capacity for development orders approved during the year. The annual report shall also summarize the implementation status of projects established in the Five-Year Schedule of Capital Improvements for Category B and C, but such portion of the annual report shall be for information purposes only, and shall not pertain to the issuance of development orders by the County.

**2. Public Facility Capacity Review.** The County shall use the procedures specified in Policy 10B-1.2, above, to enforce the requirements of Policy 10B-2.2. Records shall be maintained during each fiscal year to indicate the cumulative impacts of all development orders approved during the fiscal year-to-date or the capacity of public facilities as set forth in the most recent annual report on capacity and levels of service of public facilities. The Land Development Regulations of the County shall provide that applications for development orders that are denied because of insufficient capacity of public facilities may be resubmitted after a time period to be specified in the Land Development Regulations. Such time period is in lieu of, and not in addition to, other minimum waiting periods imposed on applications for development orders that are denied for reasons other than lack of capacity of public facilities. Land Development Regulations shall require that development commence within a specified time after a

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development order is issued, or the determination of capacity shall expire, subject to reasonable extensions of time based on criteria included in the regulations.

**3. Review of Changes in Planned Capacity of Public Facilities.** The County shall review each amendment to the Capital Improvement Element, in particular any changes in standards for levels of service and changes in the Schedule of Capital Improvements, in order to revise the amount of capacity that is available as reported in the annual report.

**4. Concurrency Implementation Strategies.** The County shall annually review the concurrency implementation strategies that are incorporated in the Comprehensive Plan:

a. Standards for levels of service are applied according to the timing of the impacts of development on public facilities. Final development orders, which impact public facilities in a matter of months, are issued subject to the availability of water, sewer, and solid waste and stormwater management facilities prior to the issuance of the building permit, park facilities must be available within 12 months of the final development order, while roads and mass transit facilities are subject to being included in the first three years of the 5-Year Schedule of Capital Improvements. Preliminary development orders can be issued subject to public facility capacity, but the capacity determination expires unless the applicant provides financial assurances to the County and obtains subsequent development orders before the expiration of the initial development order. As an alternative, the determination of public facility capacity for preliminary development orders can be waived with an agreement that a capacity determination must be made prior to issuance of any final development order for the subject property. Such a waiver specifically precludes the acquisition of rights to a final development order as a result of the issuance of the preliminary development order.

b. Standards for levels of service are applied within appropriate geographical areas of the County. Standards for County-wide public facilities are applied to development orders based on levels of service throughout the County. Standards for public facilities that serve less than the entire County are applied to development orders on the basis of levels of service within assigned service areas.

c. Public facility capital improvements are prioritized among competing applications for the same amount of facility capacity according to the criteria in Policy 10-6.1 and Policy 10-6.2. If any applications have to be deferred to a future fiscal year because of insufficient capacity of public facilities during the current fiscal year, the applications to be deferred will be selected on the basis of rational criteria.

d. Standards for levels of service may be phased to reflect the County's financial ability to increase public facility capacity, and resulting levels of service, from year to year. Standards for levels of service may be phased to specific fiscal years in order to provide clear, unambiguous standards for issuance of development orders. Such phased levels of service are not "self-amending" because they are adopted with specific

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implementation and expiration dates as part of the adopted Comprehensive Plan.

**5. Capacity of Public Facilities for Development Orders Issued** Prior to Adoption of the Plan. The County will "reserve" capacity of public facilities for development orders that were issued by the County prior to the adoption of this Comprehensive Plan under the following circumstances:

a. A representative of the property which is the subject of the development order has requested and received a determination of vested rights, and

b. A representative of the property which is the subject of the development order has accepted in writing the applicable requirements of Policy 1.1-2.

The County finds that it is not necessary to automatically "reserve" capacity of public facilities for all development orders issued prior to the adoption of the plan. First, some development orders are not vested and should be subject to the concurrency requirement. Second, many vested development orders are not compatible with the maximum allowable density or intensity of use designated on the Future Land Use Map, nor will such orders reach the development limit over extended periods of time. The County finds that the population forecasts that are the basis for this plan are a reasonable prediction of the absorption rate for development, and that the capital facilities which are planned to serve the forecast development are available for that absorption rate. Reserving public facility capacity for all previously issued development orders would deny new applicants access to public facilities, and would arbitrarily enhance the value of dormant development orders.

The County intends to develop and pursue programs that will give persons with legitimate and substantial vested rights an opportunity to proceed with their plans without arbitrary interference by the new Comprehensive Plan. However, the County intends to require such persons to "continue in good faith" in order to "reserve" capacity of public facilities which are provided by the County. The County will "reserve" capacity of public facilities for previously issued development orders that do have significant vested rights, and which do continue development in good faith, consistent with Section 163.3167(8), Florida Statutes.

6. Certificate of Concurrency. **An applicant of a development order issued after (DATE TO BE DETERMINED), which has met concurrency requirements documented under Policy 10B-1.2, shall receive a certificate of concurrency declaring that all capacity requirements have been met consistent with level of service standards.** The certificate shall declare an amount of capacity reserved for the applicant and the timeframe during which capacity will be reserved. All rights and privileges granted through a Certificate of Concurrency shall be defined in the Land Development Regulations. The Certificate of Concurrency shall be issued to applicants of a development order which has satisfied a concurrency test to determine that sufficient capacity of Category A public facilities is available to comply with standards for levels of service.

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All final development orders issued prior to (DATE TO BE DETERMINED) and holding vested rights consistent with Section 163.3167(8), Florida Statutes shall be exempt from the concurrency test.