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INTRODUCTION

The purpose of this element is to ensure the availability of public facilities and the adequacy of those facilities at adopted levels of service concurrent with the impacts of development. This intent is implemented by means of a concurrency management system which shall measure the potential impact of a development permit application upon the adopted minimum acceptable level of services, as provided in the capital improvements element of the Comprehensive Plan.

DEFINITIONS

Financial feasibility: means that sufficient revenues are currently available or will be available from committed funding sources for the first 3 years, or will be available from committed or planned funding sources for years 4 and 5, of a 5-year capital improvement schedule for financing capital improvements, such as ad valorem taxes, bonds, state and federal funds, tax revenues, impact fees, and developer contributions, which are adequate to fund the projected costs of the capital improvements identified in the comprehensive plan necessary to ensure that adopted level-of-service standards are achieved and maintained within the period covered by the 5-year schedule of capital improvements. The requirement that level-of-service standards be achieved and maintained shall not apply if the proportionate-share process set forth in s. 163.3180(12) and (16) is used. (Chapter 163.3164(32), F.S.)

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

Concurrency Management System: the procedures and/or process that the local government will utilize to assure that development orders and permits are not issued unless the necessary facilities and services are available concurrent with the impacts of development.

Facility availability: whether or not a facility is available in a manner to satisfy the concurrency management system.

GOAL 1 --_Lake County shall assure that adequate public facilities and services are available concurrent with the impacts of development.

OBJECTIVE 1.0 MAINTAIN CONCURRENCY MANAGEMENT SYSTEM

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.

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

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.

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 Schedule of Capital Improvements if the needed improvement was not required as a part of the vested project's development order.

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.

1.5 Schedule of Roadway Improvements

Lake County shall use the Long Range Transportation Plan, adopted as part of the Transportation Element, as a twenty (20) year schedule of roadway improvements and update it annually.

1.6 Long Range Transportation Concurrency Management System

Lake County will explore the feasibility of implementing a long-term Transportation Concurrency Management System consistent with Transportation Policy 5.1.

1.7 Concurrency Requirement

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

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 three criteria stipulated in Subsection (1) (a-c) 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 Schedule of Capital Improvements and the Capital Improvements Element of the Lake County Comprehensive Plan are financially feasible. , In addition to projects funded by Lake County, the Schedule of Capital Improvements will include

- Transportation projects included in the Lake Sumter MPO transportation improvement program to the extent that such improvements are relied upon to ensure concurrency and financial feasibility, and
- Privately funded projects for which the County has no fiscal responsibility, and which are necessary to ensure that adopted level of service standards are achieved and maintained. Such projects shall be enforceable consistent with Ch 163.3180(3)(a)5., F.S.

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

(3) 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.

(4) Notwithstanding the above, the County shall adopt an ordinance by December 1, 2006, which establishes a methodology for assessing proportionate fair-share mitigation options for transportation impacts, pursuant to Ch 163.3180(16), F.S.

(5) 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.

(6) 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.

(7) 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.

(8) 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 (Map X-1).

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 three requirements stipulated in Subsection (1) (a-c) 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.

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 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, FS, 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), FS, Chapter 163, FS, and Chapter 9J-5, FAC. 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.

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.

1.9 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 2.0 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.

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 2.2-1 and 2.2-2 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:

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, FS, 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, FS.

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 2, 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 1.7, above, to enforce the requirements of Policy 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 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) for compliance with the standards set forth in CME policies 1.3, 1.7, 1.8, and 1.9.

b.) 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 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. For the purpose of determining the available capacity of public facilities including available capacity for new development, the County will "reserve" capacity of public facilities for development orders on property that were issued by the County prior to the adoption of this Comprehensive provided that the such property meets the County criteria for an affirmative determination of vested rights.

The County intends to develop and pursue programs that will give persons with legitimate vested rights an opportunity to proceed with their plans.

The County will "reserve" capacity of public facilities for previously issued development orders that do have vested rights, and which do continue development in good faith, consistent with Section 163.3167(8), FS.

6. Certificate of Concurrency. An applicant of a development order, which has met concurrency requirements documented under Policy 1.7, 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 are available to comply with standards for levels of service.