




Interoffice Memorandum

AGENDA ITEM

DATE: May 25, 2022

TO: Mayor Jerry L. Demings
-AND-
County Commissioners

FROM: Jon V. Weiss, P.E., Director 
Planning, Environmental, and Development Services Department

SUBJECT: June 21, 2022 – Work Session Item
Chapter 30 Concurrency Ordinance Update

Concurrency was a fundamental tenet of the 1985 Growth Management Act and generally seeks to ensure the availability of infrastructure concurrent with the impacts caused by new development. The concept on concurrency was reinforced by the State in 2005 and 2007 with the introduction of several options providing flexibility to assist local governments in meeting additional requirements for transportation infrastructure. In 2011, the State made major changes with the Florida Community Planning Act, making many traditional concurrency components optional and removing strict requirements for financial feasibility.

Concurrency is implemented in Orange County Code, Chapter 30. The County currently implements concurrency for the following areas: Potable Water*, Solid Waste*, Wastewater*, Parks and Recreation, Stormwater*, Roads, Mass Transit, and Public Schools (* denotes areas current required by the State.)

Chapter 30 updates are necessary for consistency with the recent comprehensive plan policy changes and the Transportation Impact Fee Update which replaced the Alternative Mobility Area fee structure and established three district boundaries (Urban, Suburban, and Rural). Significant cleanup of Code language is also being proposed, along with updates required based on recent statutory changes, including language for school concurrency.

At the work session on June 21, staff will present a brief background on the concurrency framework in Orange County and highlight the major changes proposed in the ordinance updating Chapter 30, including general changes, schools, and transportation. Following the work session, the ordinance will also be reviewed by the Development Advisory Board and Local Planning Agency. A public hearing is anticipated to be scheduled for later this summer.

This work session is for informational purposes only; no action is required.

JVW/fb
Attachment

ORDINANCE NO. 2022-_____

AN ORDINANCE RELATED TO CONCURRENCY IN ORANGE COUNTY, FLORIDA, AMENDING CHAPTER 30, PLANNING AND DEVELOPMENT, OF THE ORANGE COUNTY CODE; AMENDING DIVISION 3, CONCURRENCY, EXEMPTIONS, AND VESTED RIGHTS OF ARTICLE XI "COMPREHENSIVE PLAN AND VESTED RIGHTS,"; AMENDING DIVISION 1, GENERALLY, DIVISION 2, LEVEL OF SERVICE STANDARDS, DIVISION 3, CONCURRENCY EVALUATIONS, DIVISION 4, CAPACITY INFORMATION LETTERS, DIVISION 5, CAPACITY ENCUMBRANCE LETTERS, DIVISION 6, CAPACITY RESERVATION CERTIFICATES, DIVISION 7, CONCURRENCY ADMINISTRATION, AND DIVISION 8, CONCURRENCY APPEAL/MITIGATION PROCESS OF ARTICLE XII, "CONCURRENCY MANAGEMENT"; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ORANGE COUNTY, FLORIDA:

Section 1. Amendments; In General. Article XI, Chapter 30 of the Orange County Code is hereby amended as set forth in Section 2 of this ordinance and Article XII, Chapter 30 of the Orange County Code is hereby amended as set forth in Section 3 of this ordinance, with all new wording being indicated by underlines and all deleted wording being shown by ~~strike-throughs~~.

Section 2. Amendments to Article XI, Comprehensive Plan and Vested Rights.
Division 3 of Article XI is amended, in part, to read as follows:

DIVISION 3. - CONCURRENCY, EXEMPTIONS, AND VESTED RIGHTS

* * *

40 **Sec. 30-372. Developments entitled to a vested rights**
 certificate for concurrency other than schools.

42 (a) *Vested rights generally.* Pursuant to F.S. §
44 163.3167(~~85~~), as may be amended, nothing in the comprehensive
46 policy plan shall limit or modify the rights of any person to
48 complete any development that has been authorized as a
 development of regional impact pursuant to F.S. ch. 380 or who
 has been issued a final local development order and development
 has commenced and is continuing in good faith.

50 (b) *Vested rights certificates.* Any person may request
 from the county a determination of whether the person's right to
52 complete a development is vested pursuant to subsection (a) above
 and F.S. § 163.3167(~~85~~), as may be amended, notwithstanding the
54 imposition of concurrency requirements. Such request shall be
 made on application forms as the county may from time to time
56 prescribe, and the request shall be made and shall be reviewed and
 approved or disapproved in accordance with the procedures
 described in division 4 of this article.

58 (c) *DRI's.* Notwithstanding the imposition of
 concurrency requirements, a DRI shall be entitled to a vested rights
60 certificate if, on or before December 2, 1991, either (1) the DRI
 was approved by the board pursuant to F.S. § 380.06 and the
62 pertinent development order has not expired or (2) there has been
 issued for the DRI a binding letter of vested rights, and such rights
64 are still valid and have not expired.

66 (d) *Other developments.* Notwithstanding the
 imposition of concurrency requirements, a development, which
68 may be other than a DRI, shall be deemed to have been issued a
 final local development order and to have commenced and to be
70 continuing in good faith for purposes of subsection (a) above and
 F.S. § 163.3167(~~58~~), as may be amended, and therefore to be
72 entitled to a vested rights certificate, if (1) the development
 otherwise complies with and is allowed to proceed under all county
74 ordinances and regulations and (2) the development meets at least
 one (1) of the following criteria:

* * *

76 **Sec. 30-374. Developments entitled to exemption from school**
 concurrency.

78 Certain development may be exempt from school

concurrency as provided below:

80 (a) *Exemptions.* The following types of developments are
81 exempt from the requirements of school concurrency if any of the
82 following exemptions have been met: provided, however, if any
83 application for exemption requires a more detailed review or
84 Concurrency Management staff is unable to determine whether or
85 not the application qualifies for an exemption, Concurrency
86 Management staff, in its discretion, may forward the application to
87 the County Attorney's Office for review and may, at that time,
88 require the applicant to complete a vested rights application
89 including the requisite fee. ~~the~~ An exemption shall not be granted
90 until an application for school concurrency exemption,
91 accompanied by sufficient documentation and any applicable fee,
92 is submitted and approved by the concurrency management
93 official.

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95 (10) *Plat.* A residential subdivision, which, for
96 purposes of this section, shall include single-family, multi-family,
97 and townhome units, that has been platted into one (1) or more
98 dwelling units per lot prior to September 16, 2008. Such
99 subdivision shall be exempt from school concurrency for the
100 number of unbuild dwelling units approved on the plat.

102 (b) *Vested rights.* The following types of developments
103 may be exempted from the requirements of school concurrency by
104 a school concurrency vested rights certificate; provided, however,
105 a certificate shall not be issued until an application for school
106 concurrency vested rights, accompanied by sufficient
107 documentation and any applicable fee, is submitted and approved
108 by the concurrency management official based on a review by the
109 Orange County Attorney's Office:

110 (1) *Approved site plan* ~~plat~~. Any new residential
111 development that has site plan approval for a site pursuant to a
112 specific development order approved on or before September 16,
113 2008, and such Site Plan Approval has not expired ~~including the~~
114 ~~portion of any project that has received final subdivision plat~~
115 ~~approval as a residential subdivision into one (1) dwelling unit per~~
116 ~~lot.~~

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Sec. 30-375. Expiration of exemption or vested rights certificates for school concurrency.

(a) *Expiration of school concurrency exemptions under subsection 30-374(a).* School concurrency exemptions listed in subsection 30-374(a) shall expire when the basis for the exemption terminates or expires.

(b) *Expiration of school concurrency vested rights certificates under subsection 30-374(b).* School concurrency vested rights listed in subsection 30-374(b) shall expire as follows:

(1) *Site plan.* School concurrency vested rights based on a preliminary subdivision plan approval shall expire when the preliminary subdivision plan expires, in accordance with section 34-73, as may be amended. School concurrency vested rights based on a commercial site plan approval shall expire when the building permit expires, in accordance with section 9-33, as may be amended.

* * *

Secs. 30-376—30-384. Reserved.

Section 3. Amendments to Article XII, Concurrency Management. Article XII is amended to read as follows:

ARTICLE XII. - CONCURRENCY MANAGEMENT

DIVISION 1. - GENERALLY

Sec. 30-500. Purpose; short title.

The purpose of this article is to implement the concurrency provisions of the County Comprehensive Plan (hereinafter referred to as the "comprehensive plan"), as mandated by ~~F.S. ch. 163, F.A.C. rule 9J-5.0055~~ F.S., and the First Amended and Restated Interlocal Agreement for Public School Facility Planning and Implementation of Concurrency (hereinafter referred to as the "interlocal agreement") entered into by the county, the school board and the applicable municipalities within the county as required in ~~F.S. § 163.3180(1-36)~~, F.S., both as may be amended from time to time. No development order or permit shall be issued

154 except in accordance with this article. This article may be cited as
the concurrency management ordinance.

156 **Sec. 30-501. Definitions.**

158 ~~*Adjacency review:* The review of school concurrency
service areas adjacent to the school concurrency service area in
160 which the proposed residential development is located as required
by section 18.6(e) of the interlocal agreement.~~

162 *Adjusted FISH capacity:* The number of students who can
be served in a permanent public school facility as provided in the
164 Florida Inventory of School Houses ("FISH"), adjusted to account
for the design capacity of modular or in-slot classrooms on the
campuses designed as modular or in-slot schools, but not to exceed
166 core capacity (the maximum number of students that can be
effectively served in a school dining facility).

168 ~~*Adverse trip:* A vehicle trip on a segment of a failing
transportation facility.~~

170 ~~*Alternative mobility area (AMA):* A designated
transportation concurrency exception area established for the
172 purpose of promoting urban infill development or redevelopment
and maximizing the use of existing public infrastructure pursuant
174 to Objective T2.3 and Map 16 in the Transportation Element of the
County's adopted Comprehensive Plan.~~

176 ~~*Annual capacity availability report:* A report prepared on
or by October 1 of each year annually specifying, among other
178 things, capacity used for the preceding year, and available,
encumbered, and reserved capacity for each public facility and
180 service. Pursuant to section 46.2 of the interlocal agreement, the
school board shall provide information by March 1 of each year to
182 the county with regard to public school enrollment, capacity, and
levels of service for each school concurrency service area.~~

184 *Appeal:* A request for a review of an administrative
interpretation of any provision of this article, or a review of a
186 decision made by any administrative official or board or
commission.

188 *Applicant:* A person or entity who files an application
under this article.

190 *Application:* Any document submitted by an applicant
under this article to obtain concurrency or capacity
192 approval, including, but not limited to, any of the following:

194 ~~(1) An application submitted to the concurrency~~
~~management official seeking a capacity encumbrance letter;~~

196 ~~(2) The appeal of the denial of a capacity encumbrance~~
~~letter;~~

198 ~~(3) An application to be placed on a capacity waiting~~
~~list;~~

200 ~~(4) An application for a proportionate share agreement~~
~~(for transportation) or for proportionate share mitigation (for~~
~~schools); or~~

202 ~~(5) An application for, or proposal of, a transportation~~
~~concurrency mitigation plan for a project that, if approved, will~~
204 ~~allow a capacity encumbrance letter to be issued.~~

206 *Area of influence:* The geographical transportation network
of roadway segments and intersections on which the proposed
project is tested.

208 Available Capacity: Capacity that can be encumbered or
210 reserved for future users for a specific public facility or service.

212 *Available school capacity:* The ability of a school
concurrency service area to accommodate the students generated
214 by a proposed development at the adopted level of service
standards. Available school capacity shall be derived using the
following formula for each school type:

216 Available School Capacity = (School Capacity x Adopted Level of
Service ¹) - (Enrollment ² + Reserved Capacity ³)

218 Where:

220 1 Adopted Level of Service = the ratio, expressed as a percentage, of
enrollment to school capacity as jointly adopted by the school
board and local governments.

222 2 Enrollment = student enrollment as counted in the most recent
official October count.

224 3 Reserved Capacity = the total amount of school capacity reserved
226 for all residential developments within a school concurrency
service area.

228 *Building:* Any structure that encloses or covers a space used
for sheltering any occupancy.

230 *Building permit:* For purposes of this article, a building permit
shall mean any permit which authorizes, (i) ~~the~~ construction of a
232 new building, ~~or~~ (ii) ~~the~~ expansion of a floor area or ~~the~~ increase in
the number of dwelling units contained in an existing building, or
(iii) change in use, ~~shall qualify as a building permit.~~

234 *Capacity:* Refers to the availability of a public service or
facility to accommodate users, expressed in an appropriate unit of
236 measure, ~~such as gallons per day or average daily trip ends.~~

238 *Capacity; bank available:* a concurrency management database
which tracks, in the appropriate unit of measure, the available,
240 ~~Capacity which can be encumbered, or and reserved~~ capacity to
~~future users for a specific public facility or service.~~

242 *Capacity commitment agreement:* A developer's agreement or
capacity enhancement agreement, whether individually or as part
of a consortium of capacity enhancement agreements, executed
244 prior to September 9, 2008, containing commitments to fund
wholly or partially the construction of public school facilities to
246 provide school capacity at identified public schools required to
serve the affected residential developments.

248 ~~*Capacity, encumbered:* Capacity which has been removed
from the available capacity bank through the issuance of a capacity
250 encumbrance letter.~~

252 *Capacity encumbrance letter:* A letter issued by the county
based upon a determination by the CMO that adequate capacity for
each public service and facility is available and has been
254 encumbered pursuant to ~~section 30-588~~ Division 5, hereof, to serve
the densities and intensities of development designated on such
256 capacity encumbrance letter.

258 *Capacity enhancement agreement:* A legally enforceable
and binding agreement, as may be amended and / or reinstated,
260 between an applicant and the school board (and, when necessary,
the county), committing to mitigation determined to be necessary
by the school board to avoid or mitigate overcrowding individual
262 schools impacted by the proposed residential development
~~pursuant to the comprehensive plan public schools facilities
264 element policy PS6.3.1.~~

266 *Capacity information letter:* An informational and
nonbinding letter for a specific development or property ~~which that~~
268 indicates available capacity for each public facility based upon
adopted LOS standards at the time the letter is issued but which

270 does not (i) guarantee capacity in the future, nor (ii) encumber,
commit, or reserve capacity for any period of time. Capacity
information letters for schools are issued by the school board.

272 ~~Capacity, permitted:~~ Capacity, which has been removed
from the reserved or encumbered capacity bank and has been
274 committed to a particular property through issuance of a building
permit.

276 *Capacity reservation certificate:* A certificate issued by the
county pursuant to this article, ~~which that~~ constitutes proof that
278 adequate capacity for each required public facility or service exists
and has been reserved to serve the densities and intensities of
280 development within the time period designated on such certificate.

282 *Capacity reservation fee:* The fee, as established by
resolution of the board of county commissioners, ~~that which~~ is
required to be paid to the county as a condition of capacity
284 reservation in the amount equivalent to the then applicable impact
fees calculated on the basis of the capacity reserved for the term of
286 the capacity reservation certificate:

288 (1) Less any outstanding impact fee credits or exemptions
applicable to the property; and

290 (2) For a project ~~which that~~ has received a certificate of
affordability from the county's housing and community
292 development division, less any transportation impact fees due for
the affordable housing units within the project, provided that, for
294 purposes of this subsection only, the calculation of the amount of
such transportation impact fees shall not be reduced by the
discounts authorized by Ordinance No. 92-10 Administrative
296 Regulation 4.08, as may be amended from time to time.

298 *Capacity, reserved:* Capacity which has been removed
from the available or encumbered capacity bank and allocated to a
particular property through issuance of a capacity reservation
300 certificate reserving capacity for a period of time specified in such
capacity reservation certificate. For schools, capacity is reserved
302 through the issuance of a certificate of school concurrency or the
execution of a proportionate share mitigation agreement.

304 ~~Capacity, vested:~~ Transportation capacity which has been
withdrawn from the available capacity bank through issuance of a
306 trip-based vesting determination or phasing agreement.

308 ~~Capacity waiting list:~~ A chronological listing of applicants
that have been denied a capacity encumbrance letter and have

310 applied to be put on the capacity waiting list. Applicants on the
311 capacity waiting list shall be offered capacity as it becomes
312 available on a "first come first served" basis. The county does not
maintain a capacity waiting list for schools.

314 *Certificate of school concurrency:* A written determination
315 by the county based on a finding of the school board that available
316 school capacity is sufficient to accommodate the residential
317 development and has been reserved for such development. A
318 certificate of school concurrency may be included in a
consolidated capacity reservation certificate.

320 *Change of use:* For purposes of this article, any proposed
change of use, redevelopment, or modification of the character,
type, or intensity of use of an existing building or site.

322 *CIE:* Capital improvements element of the comprehensive
plan required pursuant to F.S. § 163.3177(3)(a), F.S.

324 *CIP:* Capital improvements program, a five-year schedule
325 of capital improvements adopted annually in conjunction with the
326 county budget. The CIP is part of the adopted CIE. For schools, the
327 CIP includes the five-year district facilities work program of the
328 school district's educational facilities plan adopted in accordance
with F.S. § 1013.35, F.S.

330 *CMO:* Concurrency management official, the county
administrator or his or her designee.

332 *Collateral assignee:* That person or entity to which a
333 capacity encumbrance letter or capacity reservation certificate is
334 collaterally assigned ~~in accordance with the terms and conditions~~
335 ~~of this article~~ as security for a loan encumbering the real property
336 described therein, in accordance with the terms and conditions of
337 this article, ~~in, and which is the subject of, either a capacity~~
338 ~~encumbrance letter or a capacity reservation certificate.~~

340 *Comprehensive plan:* The Orange County 2010-2030
341 Comprehensive Plan required pursuant to F.S. § 163.3177, F.S.
342 (adopted by the board of county commissioners on May 19, 2009,
as may be amended or replaced from time to time).

344 *Concurrency:* Growth management laws intended to ensure
that the necessary public facilities and services are available
concurrent with the impacts of development.

346 *Concurrency management database:* Inventory of public
facilities subject to concurrency including, for transportation,

348 traffic counts and tracking of encumbered, reserved, and (where
data is available) vested trips.

350 *Concurrency evaluation:* Evaluation based on adopted LOS
standards to ensure that public facilities and services required as a
352 result of new development are available concurrently with the
impacts of such development, as defined in this article.

354 *Concurrency management system (CMS):* The adopted
procedures and/or processes used to ensure that public facilities
356 that are required as a result of new development are available
concurrently with the impacts of such development consistent with
358 F.S. § 163.3180, F.S.

360 ~~*Core capacity:* The maximum number of students that can
be effectively served in a school dining facility.~~

362 *Concurrency management system methodology (CMS
Methodology):* A document prepared by orange county staff which
identifies the current transportation standards and typical approach
364 to conduct a transportation concurrency analysis.

366 *County:* Orange County, a charter county and a political
subdivision of the State of Florida.

368 *County Code:* The new (recodified) Code for Orange
County, Florida, adopted by the board of county commissioners in
and pursuant to by virtue of Ordinance No. 91-9 approved April
370 16, 1991, and effective April 26, 1991, as may be amended,
modified, and/or recodified from time to time.

372 *County vested rights ordinance:* Divisions 2, 3, and 4 of
article XI, chapter 30 of the County Code, as may be amended
374 from time to time.

376 *De Minimis:* For the purposes of transportation analysis, a
project is considered de minimis if its impacts are less than one
percent (1%) of the peak hour adopted service volume of roadways
378 within the area of influence. When evaluating for school
concurrency, any residential development that creates an impact of
380 less than one (1) student shall be considered de minimis.

382 *Developer's agreement:* An agreement entered into
between the county and/or the School Board and one (1) or more
persons or entities associated with the development of land
384 including, but not limited to, agreements associated with
development orders issued pursuant to F.S. §380.06, F.S.

386 *Development analysis:* The document required to be
388 prepared and submitted under section 30-563 of this article and
section 18.4 of the interlocal agreement as a requirement for ~~the~~
390 review of a school concurrency determination application for
evaluating the impacts of a proposed residential development on
school concurrency.

392 ~~*Development completion:* The time at which all~~
~~components of a development are completed and a certificate of~~
394 ~~occupancy has been issued.~~

396 *Development impact (schools):* The projected students from
a residential development as a result of the approval of a
development application or a school concurrency determination
398 application calculated by multiplying the proposed number of
dwelling units by the student generation rates by school type as set
400 forth in the most recent school impact fee study as may be
amended from time to time.

402 *DRC:* Development review committee.

404 *Encumbered Capacity:* Capacity that has been removed
from the available capacity bank through the issuance of a capacity
406 encumbrance letter.

408 *Encumbrance period:* The period during which following
~~the date of issuance of a capacity encumbrance letter for which~~
410 ~~period~~ capacity is encumbered pursuant to issuance of a such
capacity encumbrance letter.

412 *Exempt development:* Any development that qualifies for
an exemption pursuant to section 30-374 or 30-503 of this chapter
414 or section 18.2 of the interlocal agreement, all as may be amended
from time to time.

FDOT: The Florida Department of Transportation.

416 *FISH:* Florida Inventory of School Houses; an inventory of
educational facilities within each school district that is required by
418 the Florida Department of Education to be updated annually.

420 ~~*FSUTMS:* The Florida Standard Urban Transportation~~
~~Model Structure is a formal set of modeling steps, procedures,~~
422 ~~software, file formats, and guidelines established by the Florida~~
Department of Transportation (FDOT) for use in travel demand
forecasting throughout the state.

424 *In-slot (modular) classrooms:* Relocatable classrooms that
426 conceptually "slide" into the spaces along a common walkway, as
part of a modular campus which is characterized by a campus with
428 brick and mortar core facilities and covered concrete walkways
leading to the relocatable classrooms, list of which may be
430 obtained from the school board. With the exception of in-slot
(modular) classrooms, relocatable classrooms are not considered
permanent capacity.

432 *Land development code:* Those portions of the County
Code that the county is obligated to enforce pursuant to ~~F.S. c~~Ch.
434 163, F.S., which regulate the development and/or use of real
property and that are consistent with and implement the
436 comprehensive plan pursuant to the requirements of ~~F.S. §~~
163.3202, F.S.

438 *Long-Term Transportation Concurrency Management
System (LTTCMS):* A schedule of transportation capital
440 improvements adopted into the CIE intended to achieve the
adopted LOS within a 10-year timeframe.

442 *LOS:* Level of service standard, which is the measurement
indicating the degree of service provided by, or proposed for, a
444 designated public facility based on the operational characteristics
of such facility, as defined in the FDOT Quality Level of Service
446 Manual.

448 *Mitigation plan:* A plan or proposal by ~~the~~an applicant for a
project by which the applicant proposes to improve public facilities
to mitigate the impacts of the applicant's project.

450 ~~*Pedestrian connectivity index:* A link to node ratio defined
as the number of links (street segments between intersections and
452 cul-de-sacs) divided by the number of nodes (total number of
intersections and cul-de-sacs).~~

454 *Permitted Capacity:* Capacity that has been removed from
the reserved or encumbered capacity bank and has been committed
456 to a particular property through issuance of a certificate of
occupancy.

458 *PM peak hour peak directional trips:* The vehicle trips in
the direction of higher travel demand on a road during the evening
460 peak commuting period.

462 *Project:* The particular lot, tract of land, structure, or other
development unit for which ~~the~~an applicant files an application
under this article.

464 *Project that promotes public transportation:* A
466 development within the urban service area that directly affects the
468 provision of public transit, including transit terminals, transit lines
470 and routes, separate lanes for the exclusive use of public transit
472 services, transit stops (shelters and stations), office buildings or
474 projects that include fixed-rail or transit terminals as part of the
476 building, and projects which are transit-oriented and designed to
478 complement reasonably proximate planned or existing public
480 facilities consistent with Policy T2.8.1 and Section 163.3164(37),
482 Florida Statutes F.S.

474 *Project trip:* A new vehicle trip that begins or ends within
476 the project and that uses one (1) or more off-site roads, pedestrian
478 facilities, or bicycle facilities.

478 *Proportionate share—mitigation contribution*
480 *(transportation):* An improvement or contribution made by an
482 applicant pursuant to a binding and enforceable agreement between
484 the applicant ~~school board~~ and the county to provide monetary
486 compensation, construction of specific improvements, or other
488 mitigation for the additional demand on deficient roadway
490 segments, intersections, or other transportation facilities or services
492 created by a proposed development as mandated in 163.3180(2),
494 F.S., and as set forth in sections 30-621 and 30-622~~public school
496 facilities created by a proposed residential development, as
498 mandated in F.S. § 163.3180(6)(h)2., and as set forth in section 30-
500 622(4) of this article and section 19 of the interlocal agreement.~~

490 *Proportionate share mitigation (schools):* An improvement
492 or contribution made by an applicant pursuant to a binding and
494 enforceable agreement between the applicant, school board, and
496 county to provide monetary compensation or other mitigation for
500 the additional demand on deficient public school facilities created
502 by a proposed residential development, as mandated in § 163.3180
(6)(h)2., F.S., and as set forth in section 30-621 and 30-622 of this
article and section 19 of the interlocal agreement.

498 *Public facilities and services:* Those public facilities and
500 services for which level of service (LOS) standards have been
502 established in the Comprehensive Plan, ~~and~~ which include the
following:

- (1) Roads;
- (2) Wastewater*;
- (3) Stormwater*;

- 504 (4) Solid waste[†];
- (5) Potable water[†];
- 506 (6) Parks and recreation;
- (7) Mass transit; and
- 508 (8) Schools.
-
- *Required by law

510 *RAC*: Road agreement committee.

512 *Reservation period*: The length of time for which capacity is reserved pursuant to a capacity reservation certificate.

514 *Reserved Capacity*: Capacity that has been removed from the available or encumbered capacity bank and allocated to a particular property through issuance of a capacity reservation certificate reserving capacity for a period of time specified in such capacity reservation certificate. For schools, capacity is reserved through issuance of a certificate of school concurrency.

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520 *Residential development*: Any development that is comprised of residential units, in whole or in part, for nontransient human habitation, ~~and includes~~ including single-family and/or multi-family dwelling units, regardless of whether the approval procedure for such development is considered commercial or residential.

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526 *Road agreement committee*: (RAC) A staff committee that reviews agreements related to roads and transportation impact fee credits pursuant to Administrative Regulation 4.03, as may be amended from time to time.

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Roads: Major thoroughfare network.

530 *Roadway segment*: A portion of a road defined by two (2) end points, usually the length of road from one (1) signalized intersection to the next signalized intersection.

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534 *School board*: The school board of Orange County, Florida, which is the governing body of the school district of Orange County, Florida.

536 *School concurrency*: Pursuant to ~~F.S.~~ § 163.3180(6)(h)2., F.S., the requirement that public school facilities adequate to maintain level of service standards be in place or be scheduled to

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540 be under construction within three (3) years after the issuance of
541 final subdivision or site plan approval or the functional equivalent.

542 *School concurrency determination application:* The written
543 submittals for the determination of available school capacity for a
544 residential development or a phase of a residential development,
which is included as part of an application for site plan approval.

546 *School concurrency service area:* A geographic area in
547 which the level of service standards are measured by the school
548 board for each school type (elementary, middle, high) as
designated in the public school facilities element of the county's
comprehensive plan and the interlocal agreement.

550 *School type:* The category of public school based on the
551 level or type of instruction, whether elementary ~~school grades,~~
552 middle ~~school grades,~~ or high school ~~grades.~~

554 *Site plan:* Site plan shall be the point at which school
555 concurrency is imposed. For multifamily projects this shall mean
556 commercial site plan. For single-family projects, this shall mean
557 preliminary subdivision plan; provided, however, that a capacity
558 reservation certificate shall ~~not be required until prior to before a~~
plat is approved.

560 *Specific Transportation Analysis Methodology Plan*
561 *(STAMP):* A written summary of the specific methodology
562 assumptions to be applied to the transportation analysis of a
563 specific project. The STAMP must identify any variations from the
564 Orange County CMS Methodology as well as any intersection
565 analysis requirements or local considerations identified by the
566 CMO.

568 *STAMP process:* A negotiation process by which an
569 applicant submits a draft STAMP for approval by the CMO prior
570 to submitting a traffic analysis study in support of a concurrency
571 application. The process includes a pre-application meeting or
572 conference call with the CMO to discuss the details of a draft
573 STAMP, written submission of the draft STAMP and final
574 approval by the CMO. Upon receipt of a draft STAMP, the CMO
575 will return it to the applicant marked as approved or approved with
576 revisions, identifying in writing any changes in the draft STAMP
that are required by the CMO.

578 *Student generation rates:* The number of students
579 generated by development type and school type as set forth in the
580 most recent school impact fee study and incorporated into Section

34-155, both as may be amended from time to time.

582

Subdivision: Any subdivision of land as defined in chapter 30, article III of the County Code.

584

Transportation concurrency: For transportation facilities being reviewed after October 1, 2014, such Transportation facilities are deemed to be concurrent when the facilities needed have available capacity to serve new development are in place or under actual are programmed for construction within one (1) year (for facilities being reviewed prior to October 1, 2014, it shall be three (3) years) after the local government approved a building permit or its functional equivalent that results in traffic generation pursuant to policies T2.2.1 and T2.2.2.

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Trip-end: ~~One (1) end of a vehicle trip.~~

594

~~VMT: Vehicle-mile(s) of travel generated by the project.~~

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Vehicle-trip: A vehicle movement in one (1) direction from an origin to a destination.

598

Vested Capacity: Transportation capacity that has been withdrawn from the available capacity bank through issuance of a trip-based vesting determination or phasing agreement.

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Vested rights: The right to develop, or continue to develop, a project notwithstanding the project's inconsistency with the county concurrency management system and/or county comprehensive plan, provided a vested rights certificate has been obtained pursuant to the county vested rights ordinance.

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VMT: Vehicle-mile(s) of travel generated by a project.

Sec. 30-502. Procedure.

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The CMO or his or her designee shall be responsible for carrying out the requirements of this article and shall make determinations regarding concurrency and shall issue all documentation regarding concurrency according to the procedures set forth in this article.

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These procedures are set forth in divisions ~~5 and 6~~ 4 through 8 of this article.

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Sec. 30-503. Development not subject to this article.

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~~(1) Building permit issued prior to effective date of article. Development pursuant to a building permit issued prior to December 13, 1991, is vested pursuant to the provisions of the county vested rights ordinance. No such building permit shall be extended except in conformance with the applicable provisions of the County Code. If the CMO determines such a building permit has lapsed or expired pursuant to the appropriate provision of the County Code, then no subsequent building permit shall be issued except in accordance with this article.~~

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~~(2) — Vested projects. Development which that is vested as defined and determined in accordance with the county vested rights ordinance (Chapter 30, Article XI, Division 3) shall be exempt from the requirements of this article under the conditions, for the period, and for the purposes specified therein.~~

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~~(3) De minimis development. When evaluating for transportation concurrency, after December 13, 1991, total a new development, or redevelopment, on a parcel of record as of December 13, 1991, which does not exceed one (1) have an impact of more than one (1%) of the peak hour adopted service volume of roadways within the area of influence percent of the maximum volume at the adopted level of service (LOS) on affected transportation facilities shall be exempt from the requirements of this article, provided, however, that the project's Level of Service (LOS) impacts shall be determined using generally accepted standards. A proposed development claiming exempt status shall be required to submit to the CMO such data as the CMO shall require for verification of the exempt status of the proposed development, when added to the existing and projected roadway volumes will not exceed one hundred (100) percent of the maximum volume at the adopted LOS of the affected transportation facility. Notwithstanding the foregoing, a single-family home on a single-family platted lot or lot of record as of December 13, 1991, shall be exempt from the requirements of this article. When evaluating for school concurrency, any residential development that creates an impact of less than one (1) student shall be considered de minimis and exempt from school concurrency.~~

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~~(34) Exempt permits.~~

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~~(a) The following types of permits listed below are hereby determined to be exempt from the requirements of this article, because they do not create additional impacts on public~~

658 facilities or services; provided, however, a proposed development
660 claiming exempt status shall be required to submit to the CMO
such data as the CMO shall require for verification of the exempt
status of the proposed development:

662 Permits issued to Orange County for County Facilities Constructed
664 for Nonproprietary Governmental Purposes (as that term is defined
in Section 23-88 of the County Code)

De minimis development as indicated in 30-503(2)

666 Boat dock permit

Electrical permit

668 Fence permit

Fire service permit

670 Floodplain permit

Mechanical permits (a/c, heating, ventilation)

672 Moving of structures (~~only~~ applies only to the permit issued for
designating the route of the move)

674 Plumbing permit

Right-of-way utilization permit

676 Roofing or sheet metal permit

Shoreline alteration permit

678 Sign permit

Tree removal permit

680 Underground utilities permit

Unenclosed structures (e.g. canopies)

682

684 (b) Additionally, the following shall be exempt from
the requirements of this article if, on a case-by-case basis, the
686 CRCCMO determines that the proposed development or activity
will not create additional impacts on public facilities or services:

(i) Variances.

688 (ii) Special exceptions.

(iii) Interior alterations.

690 (iv) Residential accessory structures ~~which that~~
are restricted to a use or uses which are incidental or accessory to a
692 dwelling unit on residential property, which structures do not
constitute dwelling units.

694 (v) Additions or expansions to a dwelling unit
on residential property provided such additions or expansions do
696 not increase the number of dwelling units in the particular building
or buildings on such property.

698 (vi) Such other permit, development or activity,
which the ~~CRCCMO~~ determines, on a case-by-case basis, will not
700 create additional impacts on public facilities or services.

(5) *School concurrency.* When evaluating for school
702 concurrency, any developments exempt from school concurrency
pursuant to section 30-374 shall be exempt.

704 **Sec. 30-504. Change of use.**

Any proposed change of use, which term or phrase shall
706 include a change, redevelopment or modification of the character,
type or intensity of use (excluding demolition), shall require a
708 concurrency evaluation in accordance with this article.

(1) Increased impact on public facilities or
710 services.

(a) — If a proposed change of use (which shall include an increase in density or intensity or a change in unit type) shall have a greater impact on public facilities and/or services than the previous use, and such impact exceeds the de minimis amount, a concurrency evaluation shall be required for the net increase only to determine if a capacity encumbrance letter (and or a capacity reservation certificate, if appropriate) shall be is required, for the net increase only. For school concurrency this includes any amendment to any previously approved residential development that adds residential units or increases the number of dwelling units or changes the type of dwelling units (e.g., converts nonresidential to residential or converts single family to multifamily).

(b) — For transportation concurrency, if the proposed change in use has an impact of less than one hundred ten

726 ~~(110) percent of the previously existing capacity, the change of use~~
728 ~~shall not be denied based on the failure to meet the adopted LOS.~~
730 ~~For school concurrency, any residential development that creates~~
~~an impact of less than one (1) student is exempt from school~~
~~concurrency pursuant to subsections 30-503(3) and 30-374(a)(1).~~

732 (2) *Decreased impact on public facilities and*
734 *services.* If the proposed change of use (which shall include an
736 increase in density or intensity or a change in unit type) shall have
738 an impact on public facilities and/or services ~~which that~~ is equal to
740 or less than the previous use, then the proposed change,
redevelopment or modification of use may proceed without the
encumbrance of additional capacity in accordance with the
provisions of this article; provided, however, that ~~in connection~~
~~with such proposed change, redevelopment or modification, ~~must~~~~
~~comply with~~ all other applicable provisions of the County Code
~~must be complied with.~~

742 (3) *Definition of "previous use."* For purposes of
this section, the term "previous use" shall mean either:

744 a. The use existing on the site when a
concurrency evaluation is sought; or

746 b. If no active use exists on the site at
748 the time when a concurrency evaluation is sought, then the most
recent use on the site within the six-year period immediately prior
to the date of application.

750 The applicant shall provide evidence ~~which that~~
752 ~~establishes the existence of such use. Such evidence ~~must~~ may~~
754 ~~include, but shall not be limited to, utility records, phone bills,~~
~~income tax returns, tax bills, occupational licenses, and unrelated~~
~~party affidavits.~~

Sec. 30-505. Demolition or termination of existing use.

756 In the case of demolition of an existing structure or
758 termination of an existing use in conjunction with plans for
redevelopment, the concurrency evaluation for future development
760 shall be based upon the new or proposed land use as compared to
the land use existing at the time of such demolition or termination.
762 Credit for the most recent previous~~prior~~ use shall not be
transferable to another parcel. Credit for the most recent previous
764 ~~prior~~ use must be ~~utilized~~used in connection with a redevelopment
of the site within two (2) years following the date of issuance of
the demolition permit, demolition of the existing structure, or

766 termination of the existing use, whichever first occurs. Credit for
768 the most recent previous~~prior~~ use shall be deemed extinguished in
the event such credit is not ~~utilized~~used in connection with ~~the~~
770 issuance of a building permit or a capacity reservation certificate
within two (2) years following the date of issuance of the
772 demolition permit for the subject property, demolition of the
existing structure, or the termination of the existing use, whichever
first occurs.

774 **Sec. 30-506. Reserved.~~Transportation concurrency exception~~**
areas.

776 ~~The alternative mobility area is designated as a~~
778 ~~transportation concurrency exception area pursuant to Objective~~
~~T2.3 and Map 16 in the transportation element of the county's~~
780 ~~adopted comprehensive plan. The AMA requirements found in~~
~~Objective T2.3 and its associated policies shall apply to future land~~
782 ~~use map amendments, rezonings, special exceptions, PD land use~~
~~plans, development plans, preliminary subdivision plans, and~~
784 ~~commercial site plans within the AMA, and may apply to~~
~~substantial changes to PD land use plans, preliminary subdivision~~
~~plans, and development plans within the AMA.~~

786 **Sec. 30-507. Projects that promote public transportation.**

788 (a) Projects that promote public transportation ~~are~~shall
be exempt from transportation concurrency ~~based on their~~
790 ~~consistency if consistent~~ with Policy T2.8.1 of the comprehensive
792 plan and Section 163.3164(37), ~~Florida Statutes~~, implementation
of site design and performance standards specified under
Transportation Objective T2.8, and the submittal of a mobility
analysis that satisfies all of the requirements of this section.

794 (1) A project may establish eligibility through
796 comprehensive plan amendment, rezoning, special exception, or
planned development land use plan, preliminary subdivision plan,
798 or development plan. A project with appropriate future land use or
zoning that is not a planned development may establish eligibility
800 through application to the county roadway agreement committee
(RAC).

802 (2) A portion of a planned development or
proposed development may be eligible for concurrency ~~exception~~
exemption if designed as a project promoting public transportation.
804 This partial ~~exemption~~exemption shall not affect other portions of a
planned development or proposed development not designed as a
806 project promoting public transportation, which shall still be subject

to transportation concurrency.

808 (3) A pre-application conference shall be
810 required with the transportation planning, development
engineering, zoning, and planning divisions and can be scheduled
by contacting the transportation planning division.

812 (4) ~~The county shall require the applicant shall~~
814 ~~to complete a mobility analysis for the proposed development as~~
816 ~~part of the project's transportation analysis that must be submitted~~
818 ~~to the transportation planning division. The transportation planning~~
820 ~~division will coordinate review comments from County reviewers,~~
822 ~~which will be provided to the applicant within fifteen (15) working~~
days of submittal of the mobility analysis. The mobility analysis
must be based on the methodology published by Orange County
which may include the following latest Orange County
Concurrency Management System Methodology and shall include
the following:

824 ~~a. A map depicting the proposed~~
~~development site in the immediate context of adjacent parcels;~~

826 ~~ba. Existing circulation network within a~~
¼ mile walking distance (streets, sidewalks, pedestrian paths, and
828 bicycle paths, with stub-outs clearly indicated) noting incomplete
facilities or those in need of repair;

830 ~~eb. Proposed circulation network within~~
a ¼ mile walking distance for of the development site in
832 relationship to its the land use immediate context and in connection
to existing and/or planned transit stops/stations;

834 ~~dc. Transit map showing the geographic~~
extent of the transit lines that can be accessed from transit stops
within ¼ mile walking distance of the site's primary entrance; and

836 ~~d. Footprint of proposed development if~~
available.

838 (5) An applicant may apply to remove the
840 "project promoting public transportation" designation from all or
842 part of a project by notifying the transportation planning division.
For planned developments, the applicant must submit the revised
844 plan to development review committee (DRC) and, if mitigation is
846 necessary, to the RAC. For projects that are not planned
developments, the applicant must apply to the concurrency
management office for a concurrency determination and make any
required payments to the county. Pursuant to section 38-1207.

848 substantial changes to PD land use plans must be approved by the
board of county commissioners.

850 (6) Projects that promote public transportation on
constrained, backlogged, or long-term transportation concurrency
852 management system roadways shall be exempt from the
requirement for proportionate share, but shall be required to meet
any site design requirements of Transportation Element Policy
854 T2.2.4.

856 (b) Any denial involving a "project promoting public
transportation" designation may be appealed to the RAC.

Secs. 30-508—30-519. Reserved.

858 **DIVISION 2. - LEVEL OF SERVICE (LOS) STANDARDS**

Sec. 30-520. Performance standards.

860 Level of service standards for potable water, solid waste,
wastewater, parks and recreation, stormwater, roads, mass transit
862 and public school facilities shall be as established in the
Comprehensive Plan. ~~The Comprehensive Plan's capital~~
864 ~~improvements element standards are as follows:~~

866 (1) *Potable water.* ~~Pursuant to the CPP, The~~ level of
service standard for potable water is contained in Comprehensive
868 Plan Policy CIE1.3.4 for development that requires shall be two
hundred seventy five (275) gallons per day per equivalent
870 residential unit when central water service from the county public
utilities ~~is required for development.~~ If the service provider is other
872 than ~~the~~ county public utilities, then the service standard of the
appropriate service provider shall ~~be utilized~~ be used.

874 (2) *Solid waste.* ~~Pursuant to the CPP, The~~ level of
service standard for solid waste is contained in Comprehensive
876 Plan Policy CIE1.3.6 to maintain a landfill capacity to
accommodate solid waste generated at a rate of six (6.0) pounds
per person per day.

878 (3) *Wastewater.* ~~Pursuant to the CPP, The~~ level of
service standards for wastewater is contained in Comprehensive
880 Plan Policy CIE1.3.5 for development that requires central
wastewater service from shall be two hundred twenty five (225)
882 gallons per day per equivalent residential unit when central sewer
from ~~the~~ county public utilities ~~is required for development.~~ If the
884 service provider is other than the county public utilities, then the
service standard of the appropriate provider shall ~~be utilized~~ be

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used.

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(4) *Parks and recreation.* The level of service standard for parks is contained in Comprehensive Plan Policy CIE1.3.7. Pursuant to the CPP, level of service standards for parks and recreation are one and one half (1.5) acres per one thousand (1,000) population (unincorporated area) for publicly owned activity-based parks and six (6.0) acres per one thousand (1,000) population (unincorporated area) for publicly owned resource-based parks. The projected population of a particular development in connection with which a capacity encumbrance letter or a capacity reservation certificate is requested shall be based upon the following population factors:

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(a) — 2.86 persons per dwelling unit for single family;

(b) — 1.80 persons per dwelling unit for multifamily; and

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(c) — 2.77 persons per dwelling unit for mobile homes.

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(5) *Stormwater.* Pursuant to the CPP, The level of service standard for stormwater is contained in Comprehensive Plan Policy CIE1.3.8. shall be based on the following stormwater quantity and quality criteria:

(a) — Design storm based on twenty-four hour minimum:

Facility	Design Storm
Bridges	100-year
Canals, ditches, or culverts for drainage external to the development	25-year
Crossdrains, storm sewers	10-year
Roadside swales for drainage internal to the development	10-year

Detention basins	2 5-year
Retention basins (no positive outfall)	1 00-year

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~~(b) Stormwater management systems shall be required to retain or detain with filtration the first one half (1/2) inch of rainfall on the site, or the runoff generated from the first inch of rainfall on developed sites, whichever is greater.~~

~~(c) A retention/detention system shall be required which limits peak discharge of a developed site to the discharge from the site in an undeveloped condition during a twenty four-hour/twenty five year frequency storm event.~~

~~(d) Prior to development approval, projects shall be required to receive appropriate permits from state agencies to comply with the rules and regulations for stormwater facility design, performance and discharge.~~

~~(e) Discharged stormwater runoff shall not degrade receiving surface water bodies below the minimum conditions established by state water quality standards (F.A.C. §§ 17-302 and 17-40.420).~~

(6) Transportation. The level of service standard for roads is contained in Comprehensive Plan Policies T2.1.1 and T2.1.2. The level of service standard for each approach within a signalized intersection will be the level of service standard for the underlying roadway on that approach. Roads level of service. Pursuant to the CPP, peak hour level of service for roads are:

Level of Service Standards

Type	— State and County	
	Rural	Urban
SIS* [†]	D	E
Principal arterials	D	E

Minor arterials	D	E
Collectors	D	E

930 ~~2~~ SIS Strategic Intermodal System

932 (7) ~~Mass transit. Pursuant to the CPP, The level of~~
 933 ~~service standard for mass transit is contained in Comprehensive~~
 934 ~~Plan Policy T2.1.3 to maintain a person trip capacity of not less~~
~~than thirty seven thousand eight hundred eighty six (37,886) per~~
~~weekday.~~

936 (8) ~~Public schools. The level of service standard for~~
 937 ~~public schools facilities shall be as jointly determined by the~~
 938 ~~school board and the county and adopted by the county is~~
 940 ~~contained in the Comprehensive Plan Policies CIE1.3.16 and~~
~~CIE1.3.18.~~

Secs. 30-521—30-549. - Reserved.

942 **DIVISION 3. - CONCURRENCY EVALUATIONS**

Sec. 30-550. Concurrency requirements applicable.

944 The CMO shall ~~utilize~~ use the standards and requirements
 945 set forth in this article to conduct a concurrency evaluations ~~prior~~
 946 ~~to issuance of a capacity information letter (see division 4),~~
 947 ~~capacity encumbrance letter (see division 5), or capacity~~
 948 ~~reservation certificate (see division 6) for those projects not~~
 949 ~~otherwise exempt from concurrency review as set forth in Division~~
 950 ~~I hereof section 30-503. In addition to the standards set forth in this~~
 951 ~~article, the CMO shall also utilize~~ use the standards set forth in the
 952 ~~comprehensive policy plan and such other standards regarding~~
 953 ~~concurrency as may be authorized by the board of county~~
 954 ~~commissioners from time to time. In connection with concurrency~~
 955 ~~evaluations, the CMO shall have the authority to consider, utilize~~
 956 ~~use and rely upon, in whole or in part, other appropriate~~
 957 ~~methodologies, evaluations, studies, documents and/or information~~
 958 ~~submitted by the applicant.~~

960 **Sec. 30-551. Capacity encumbrance and subsequent reservation.**

962 No capacity encumbrance letter (or capacity reservation
 963 certificate) shall be issued ~~except after~~ unless a concurrency
 964 ~~evaluation is that has been~~ conducted pursuant to this article ~~which~~
 indicates that capacity for the proposed development is available

with respect to all applicable public facilities and services.

966 **Sec. 30-552. Comprehensive Plan amendments and rezoning**
968 **applications.**

968 (1) *Comprehensive Plan amendments.* A concurrency
970 evaluation as outlined in this division is not required in connection
972 with a Comprehensive Plan amendment or future land use map
974 amendment. However, the county may consider the availability of
976 public services and facilities when evaluating the appropriateness
978 of a future land use map amendment or Comprehensive Plan
980 amendment. A request for future land use map amendment or
982 Comprehensive Plan amendment may be denied if public facilities
984 and services are not expected to be available within the planning
period pursuant to the Comprehensive Plan. In evaluating the
availability of public school facilities, the county shall request
school capacity information from the school board for all
Comprehensive Plan amendments that will result in a net increase
of ~~ten (10) single family or fifteen (15) multifamily residential~~
~~units one (1) student pursuant to section 704B.2. of the County~~
~~Charter and the Comprehensive Plan public schools facilities~~
~~element policy PS6.3.1.~~

986 (2) *Zoning applications.* A concurrency evaluation as
988 outlined in this division is not required in connection with a
990 rezoning application or other zoning application subject to this
992 article. However, the county may consider the planned availability
994 of public services and facilities when evaluating the
996 appropriateness of a rezoning application or other zoning
998 application subject to this article. A rezoning application or other
zoning application subject to this article may be denied if public
facilities and services, other than transportation facilities, are not
expected to be available within the planning period pursuant to the
~~Comprehensive Plan future land use element.~~ In evaluating the
availability of public school facilities, the county shall request
school capacity information from the school board for all rezoning
applications that will result in a net increase of ~~ten (10) single-~~
~~family or fifteen (15) multifamily residential units~~ four (4) students
~~pursuant to section 704B.2. of the County Charter and the~~
~~Comprehensive Plan public schools facilities element policy~~
~~PS6.3.1.~~

1004 (3) *Planned development.* A study to assess traffic and
1006 capacity impacts shall be required as part of any application for
planned development (PD) zoning. If the PD already has a CEL,
no study shall be required. The study ~~shall~~ may be submitted as
part of the staff analysis to the planning and zoning

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commission/local planning agency as well as to the board of county commissioners in connection with the review by such bodies of the requested rezoning, and such study ~~shall~~ may be considered in determining the appropriateness of the requested rezoning and/or the conditions applicable thereto. A substantial change to a PD that affects traffic may require a traffic study and analysis.

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(4) *Recommendation for denial.* ~~In the case where there is a recommendation of denial of~~ If the requested comprehensive plan future land use map amendment, comprehensive policy plan amendment, rezoning, or PD application is recommended for denial, the applicant is not precluded from applying for a capacity encumbrance letter and a capacity reservation certificate in accordance with this article; provided, however, approval is contingent upon final approval of the requisite development approval.

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Sec. 30-553. Preliminary subdivision plan (PSP) and plat approvals for residential subdivisions.

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~~Other than projects subject to the requirements of the county site development ordinance. County Code chapter 30, article VIII, section 30-326 et seq., u~~Unless a currently valid capacity encumbrance letter or capacity reservation certificate applicable to the property has been obtained, a concurrency evaluation shall be required as part of any application for a residential preliminary subdivision plan (PSP). The PSP may be approved, notwithstanding a lack of the requisite capacity (other than public school capacity), provided that such approval shall ~~reiterate~~ state that the ~~requisite~~ necessary capacity is not, ~~then~~ and may not ~~in the future~~ be, available. If there is insufficient school capacity, the approval shall require that a certificate of school concurrency be obtained prior to approval ~~and recording~~ of the plat. Unless otherwise vested or exempt, The approval shall also state that in all cases a capacity reservation certificate shall be required before platting. If the concurrency evaluation indicates that the subdivision would be concurrent, and if the preliminary subdivision plan (PSP) is approved, a capacity reservation certificate shall be required before no later than approval of a the plat is approved for recording.

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Sec. 30-554. Nonresidential subdivisions.

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Unless a currently valid capacity encumbrance letter or

1050 capacity reservation certificate applicable to the property has been
1052 obtained, a ~~concurrency evaluation~~ capacity encumbrance letter
1054 shall be required as part of any application to approve a
1056 nonresidential subdivision plat ~~for recording~~. A nonresidential
1058 subdivision plat may be approved ~~for recording~~ without a capacity
reservation certificate. ~~H~~however, such approval of a
~~nonresidential plat for recording~~ does not entitle or ensure any
capacity to the subdivision. Further, any vertical construction or
development on a project on such platted lands shall comply with
section ~~section~~ 30-555.

1060 **Sec. 30-555. Commercial projects and projects subject to site
development review process.**

1062 Unless a currently valid capacity encumbrance letter or
capacity reservation certificate applicable to the property has been
1064 obtained, a ~~concurrency evaluation~~ capacity encumbrance letter
will be required as part of any application for a vertical building
1066 permit for any project required to comply with the requirements of
the county site development ordinance, ~~County Code chapter 30,~~
1068 ~~article VIII, section 30-236 et seq., commonly known as~~
~~commercial site plan review. If the concurrency evaluation~~
1070 ~~indicates that the proposed development would be concurrent, a~~
capacity reservation certificate ~~shall~~ may be required before the
1072 final commercial site plan (development plan for a residential
project) is approved.

1074 **Sec. 30-556. Concurrency evaluation—Potable water.**

1076 (1) Level of Service. ~~A~~ The concurrency evaluation for
1078 potable water shall be conducted based on ~~required prior to~~
~~issuance of a capacity encumbrance letter. The~~ the potable water
LOS standards specified in section 30-520(1) ~~shall be~~
1080 ~~implemented, and the concurrency evaluation for potable water~~
~~shall be conducted on the basis thereof.~~

1082 If Orange County Utilities ~~the county public utilities~~ is not
the service provider, a letter from the potable water service
1084 provider verifying its ability to serve the project must be submitted
to the CMO. All applicants are ~~cautioned and hereby~~ put on notice
1086 that, ~~where a~~ any capacity encumbrance letter ~~and/or~~ a capacity
reservation certificate ~~is~~ issued on the basis of or in reliance upon,
1088 in whole or in part, the commitment of a service provider other
than the county to furnish or provide all or a part of the necessary
public facilities and/or services, ~~the capacity encumbrance letter or~~
1090 ~~the capacity reservation certificate~~ may be revoked or terminated
in the event of the failure or refusal of such outside service

1092 provider ~~other than the county~~ to provide the services and/or
facilities at the requisite level of service.

1094 (2) Capacity determination. For proposed development
where Orange County Utilities is the service provider, the Utilities
1096 Department will determine, on an annual basis, or more frequently
as may be determined by the CMO, whether capacity exists to
1098 accommodate all development that may be proposed during that
period. If the Utilities Department determines that adequate
1100 capacity exists, this information will be forwarded to the
Concurrency Management Office and will satisfy the concurrency
1102 evaluation requirement for the period specified. If, at any time, the
Utilities Department determines that insufficient capacity exists, a
concurrency evaluation will be required.

1104 ~~(3) Method of evaluation prior to encumbrance.~~ In
performing ~~the a~~ concurrency evaluation for potable water ~~in order~~
1106 ~~to encumber capacity, the CMO shall determine the maximum the~~
amount of potable water, ~~in gallons per day, which that~~ would be
1108 ~~necessary needed~~ to serve the proposed development shall be
~~determined by applying the LOS standard to the number of~~
1110 ~~equivalent residential units (ERUs) in the proposed~~
~~developmentuses.~~ If such amount of potable water, plus potable
1112 water ~~which that~~ is or will be generated by all existing, permitted,
vested, encumbered and reserved development, can be provided
1114 while meeting the performance standards set forth ~~in section 30-~~
~~520(1), herein,~~ then the development shall be deemed to be
1116 concurrent for potable water; ~~and accordingly, the requested~~
~~capacity encumbrance letter may be issued.~~ If the amount of
1118 potable water, plus potable water which is or will be necessary to
~~serve all existing, permitted, vested, encumbered and reserved~~
1120 ~~development, cannot be provided while meeting the if such~~
~~performance standards set forth hereincannot be met,~~ then the
1122 proposed development shall ~~not~~ be deemed ~~not to be~~ concurrent for
potable water; ~~and accordingly, the requested capacity~~
1124 ~~encumbrance letter shall not be issued.~~

1126 ~~(2) Performance standards.~~ The portion of existing and
projected treatment plant capacity which will be allocated to serve
1128 ~~the proposed development shall be determined by applying the~~
~~LOS standard to the number of equivalent residential units (ERUs)~~
1130 ~~in the proposed development. The LOS standard for potable water~~
~~when the county is the service provider is two hundred seventy-~~
1132 ~~five (275) gallons per day per ERU. For potable water, one (1)~~
~~of the following standards will satisfy the concurrency requirement:~~
1134 ~~(a) The necessary facilities and services are in place at the time a~~
~~development permit is issued; or (b) a development permit is~~

1136 issued subject to the condition that the necessary facilities and
1138 services will be in place when the impacts of development occur;
1140 or (c) the necessary facilities are under construction at the time a
1142 development permit is issued; or (d) the necessary facilities and
services are guaranteed in the enforceable development agreement
that includes the provisions of F.A.C. rule 9J-5.005(3)(a)1-2. The
development agreement must guarantee that the necessary facilities
and services will be in place when the impacts of development
occur.

1144 The concurrency ~~determination~~ evaluation for potable water
1146 focuses on present and planned plant capacity. It does not include
an evaluation of actual connections from county facilities to the
1148 project and on-site infrastructure. Therefore, any capacity
encumbrance letter or capacity reservation certificate is subject to
1150 the ~~developer~~ applicant complying with (1) applicable sections of
the Land Development Code, (2) applicable rate resolutions, and
1152 (3) Chapter 37 and any other ordinances, rules and regulations
governing water capacity. ~~The concurrency evaluation for potable
1154 water with respect to a particular development shall be performed
by the county utilities engineering department and shall be based
upon the last annual capacity availability report provided to the
1156 CMO by the county public utilities engineering department as
provided for in division 7 of this article.~~

1158 **Sec. 30-557. Concurrency Evaluation Same—Solid waste.**

1160 (1) Level of service. ~~The~~A concurrency evaluation for
solid waste shall be conducted based on the required prior to
1162 issuance of a capacity encumbrance letter. ~~The solid waste LOS
standards specified in section 30-520(2) shall be implemented, and
1164 concurrency evaluations for solid waste shall be conducted on the
basis thereof.~~

1166 (2) Capacity determination. For proposed
developments where the Orange County Solid Waste Division is
1168 the service provider, the Division will determine, on an annual
basis, or more frequently as determined by the CMO, whether
1170 capacity exists to accommodate all development that may be
proposed during that period. If the Division determines that
adequate capacity exists, this information will be forwarded to the
1172 Concurrency Management Office and will satisfy the concurrency
evaluation requirement for the period specified. If, at any time, the
1174 Division determines that insufficient capacity exists, a concurrency
evaluation will be required.

1176 (3) Method of evaluation prior to encumbrance. In

1178 performing the ~~a~~ concurrency evaluation for solid waste, in order
to encumber capacity, the CMO shall determine if the maximum
1180 amount of solid waste, in pounds per day, which could be
generated by the proposed use(s). If such amount of solid waste,
1182 plus solid waste which ~~that~~ is or will be generated by all existing,
permitted, vested, encumbered and reserved development, is equal
1184 to or less than the performance standards set forth in this section
and in section 30-520(2), then the proposed development shall be
1186 deemed to be concurrent for solid waste, and accordingly, the
requested capacity encumbrance letter may be issued. If the
1188 amount of solid waste which would be generated by the proposed
development, plus solid waste which is or will be generated by all
1190 existing, permitted, vested, encumbered and reserved
development, is greater than one
1192 hundred (100) percent of the county landfill capacity, then the
proposed development shall not be deemed not to be concurrent for
1194 solid waste, and accordingly, the requested capacity encumbrance
letter shall not be issued.

1196 (2) ~~Performance standards.~~ Solid waste LOS will be
measured for all proposed development. Measurement shall be
1198 achieved by comparing the forecasted annual tonnage measured by
the adopted LOS with the actual tonnage reported by the resource
1200 recovery department. The county will maintain the projected
landfill capacity by applying the appropriate LOS standards to total
1202 county wide population and will update the inventory on an annual
basis in the annual capacity availability report. The review will
1204 occur more frequently if and when the projected remaining useful
life of the county disposal system is five (5) years or less. For solid
1206 waste, one (1) of the following standards will satisfy the
concurrency requirement: (a) The necessary facilities and services
1208 are in place at the time a development permit is issued; or (b) a
development permit is issued subject to the condition that the
1210 necessary facilities and services will be in place when the impacts
of development occur; or (c) the necessary facilities are under
1212 construction at the time a development permit is issued; or (d) the
necessary facilities and services are guaranteed in an enforceable
1214 development agreement that includes the provisions of F.A.C. rule
9J. 5.005(3)(a)1. 2. The development agreement must guarantee
1216 that the necessary facilities and services will be in place when the
impacts of development occur.

1218 **Sec. 30-558. Concurrency Evaluation Same—Wastewater.**

(1) Level of Service. The A-concurrency evaluation for

1220 wastewater shall be required prior to issuance of a capacity
1222 encumbrance letter. The conducted based on the wastewater LOS
standards specified in section 30-520(3) shall be implemented, and
1224 concurrency evaluations for the wastewater shall be conducted on
the basis thereof.

1226 ~~(1)~~ (2) Capacity determination. For proposed
developments where Orange County Utilities is the service
1228 provider, the Utilities Department will determine, on an annual
basis, or more frequently as determined by the CMO, whether
1230 capacity exists to accommodate all development that may be
proposed during that period. If the Utilities Department determines
1232 that adequate capacity exists, this information will be forwarded to
the Concurrency Management Office and will satisfy the
1234 concurrency evaluation requirement for the period specified. If, at
any time, the Utilities Department determines that insufficient
capacity exists, a concurrency evaluation will be required.

1236 ~~(3) Method of evaluation prior to encumbrance.~~ In
performing ~~the~~ a concurrency evaluation for wastewater in order to
1238 encumber capacity, ~~the CMO shall determine, if the maximum~~
amount of wastewater, in gallons per day, ~~which would be~~
1240 ~~generated by necessary to serve the proposed use(s). If such~~
~~amount of wastewater, plus wastewater which that is or will be~~
1242 ~~generated by all existing, permitted, vested, encumbered and~~
~~reserved development, can be accommodated provided~~ while
1244 meeting the performance standards set forth in ~~this subpart~~ Section
30-520(3), then the development shall be deemed to be concurrent
1246 for wastewater, ~~and accordingly, the requested capacity~~
~~encumbrance letter may be issued. If the amount of wastewater,~~
1248 ~~plus wastewater which is or will be necessary to serve all existing,~~
~~permitted, vested, encumbered and reserved development, cannot~~
1250 ~~be provided while meeting the ; if such performance standards~~
~~cannot be met, set forth in this section and in section 30-520(3),~~
1252 then the proposed development shall not be deemed ~~not to be~~
concurrent for wastewater, ~~and accordingly, the requested capacity~~
1254 ~~encumbrance letter shall not be issued.~~

1256 ~~(2) Performance standards.~~ The portion of existing and
projected treatment plant capacity which will be allocated to serve
1258 the ~~projected development shall be determined by applying the~~
~~LOS standard to the number of equivalent residential units (ERUs)~~
in the proposed development. For wastewater, one (1) of the
1260 following standards will satisfy the concurrency requirement: (a)
The necessary facilities and services are in place at the time a
1262 development permit is issued; or (b) a development permit is
issued subject to the condition that the necessary facilities and

1264 ~~services will be in place when the impacts of development occur;~~
1266 ~~or (c) the necessary facilities are under construction at the time a~~
1268 ~~development permit is issued; or (d) the necessary facilities and~~
1270 ~~services are guaranteed in an enforceable development agreement~~
~~that includes the provisions of F.A.C. rule 9J. 5.005(2)(a)1. 3. The~~
~~development agreement must guarantee that the necessary facilities~~
~~and services will be in place when the impacts of development~~
~~occur.~~

1272 The concurrency determination for wastewater focuses on
1274 present and planned plant capacity. It does not include an
1276 evaluation of actual connections from county facilities to the
1278 project and on-site infrastructure. Therefore, any capacity
1280 encumbrance letter or capacity reservation certificate is subject to
1282 the ~~developer applicant~~ complying with (1) applicable sections of
1284 the Land Development Code, (2) applicable rate resolutions, and
1286 (3) Chapter 37 and any other ordinances, rules and regulations
~~governing the connection and allocation rules of the county~~
~~wastewater treatment plants. The concurrency evaluation for~~
~~wastewater with respect to a particular development shall be~~
~~performed by the county public utilities engineering department~~
~~and shall be based upon the last annual capacity availability report~~
~~provided to the CMO by the county utilities engineering~~
~~department as provided for in division 7 of this article.~~

Sec. 30-559. Concurrency Evaluation Same—Parks.

1288 (1) Level of service. ~~The A~~ concurrency evaluation for
1290 parks shall be ~~required prior to issuance of a capacity encumbrance~~
1292 ~~letter for any residential development. The conducted based on the~~
~~parks LOS standards specified in section 30-520(4) shall be~~
~~implemented, and concurrency evaluations for parks shall be~~
~~conducted on the basis thereof.~~

1294 ~~(1) —(2)~~ Capacity determination. ~~The Orange County~~
1296 ~~Parks and Recreation Division will determine, on an annual basis,~~
~~or more frequently as determined by the CMO, whether capacity~~
1298 ~~exists to accommodate all development that may be proposed~~
~~during that period. If the Division determines that adequate~~
~~capacity exists, this information will be forwarded to the~~
1300 ~~Concurrency Management Office and will satisfy the concurrency~~
~~evaluation requirement for the period specified. If, at any time, the~~
1302 ~~Division determines that insufficient capacity exists, a concurrency~~
~~evaluation will be required.~~

1304 (3) Method of evaluation prior to encumbrance. In
performing the concurrency evaluation for parks ~~in order to~~

1306 ~~encumber capacity~~, the CMO shall determine the number of acres
1308 of parkland ~~which that~~ would be necessary to serve the number of
dwelling units on the site, based on the number of units submitted
by the applicant.

1310 If such amount of parkland, plus parkland ~~which that~~ is or
1312 will be necessary to serve all existing, permitted, vested,
encumbered and reserved development, can be provided while
1314 meeting the performance standards set forth in ~~this section and~~
section 30-520(4), then the project shall be deemed to be
concurrent for parks, ~~and accordingly, the requested capacity~~
1316 ~~encumbrance letter may be issued. If such amount of parkland,~~
plus parkland which is or will be necessary to serve all existing,
1318 permitted, vested, encumbered and reserved development, cannot
be provided while meeting the ~~;~~ if such performance standards set
1320 forth in this section and in section 30_52_0(4), cannot be met, then
the project shall not be deemed to be concurrent for parks, ~~and~~
1322 ~~accordingly, the requested capacity encumbrance letter shall not be~~
issued.

1324 ~~(2) — Performance standards. When appropriate, the~~
projected acreage need for parks in connection with each
1326 application shall be determined by the population estimate
submitted by the applicant and verified by the CMO. The county
1328 will maintain a current inventory of available public park acreage
which can be counted toward the LOS requirement. The inventory
1330 will be updated at least annually at the time of submission of the
annual capacity availability report referred to in division 7 below.
1332 For parks, one (1) of the following standards will satisfy the
concurrency requirement: (a) The necessary facilities and services
1334 are in place at the time a development permit is issued; or (b) a
development permit is issued subject to the condition that the
1336 necessary facilities and services will be in place when the impacts
of development occur; or (c) the necessary facilities are under
1338 construction at the time a development permit is issued; or (d) the
necessary facilities and services are guaranteed in an enforceable
1340 development agreement that includes the provisions of F.A.C. rule
9J.5.005(2)(a)1. 2. The development agreement must guarantee
1342 that the necessary facilities and services will be in place when the
impacts of development occur.

1344 **Sec. 30-560. Concurrency Evaluation Same—Stormwater.**

1346 A concurrency evaluation for stormwater shall be required
prior to the issuance of a capacity encumbrance letter. The project
shall be deemed concurrent with respect to stormwater provided
1348 the applicant shall submit, as part of the application for ~~the a~~

1350 capacity encumbrance letter, a signed statement, ~~which may be~~
1352 ~~part of the application,~~ that upon submittal of the actual
1354 ~~development site plan(s)~~ for the project, the stormwater LOS
1356 standards specified in section 30-520(5) shall be implemented met,
1358 and evaluations for stormwater shall be conducted on the basis
1360 thereof. ~~Development Site~~ plans for the project shall not be
1362 approved, and a building permit authorizing commencement of
1364 development shall not be issued except upon a determination that
development of the project in accordance with the submitted
development site plans shall result in the project meeting the
stormwater LOS standards specified in section 30-520(5) as
implemented and evaluated by and in accordance with the
stormwater management requirements of the county subdivision
regulations and as specified in section 30_52_0(5). Issuance of the
a capacity encumbrance letter does not relieve the applicant from
compliance with all other applicable local, state, and federal
permitting requirements.

1366 **Sec. 30-561. Concurrency Evaluation ~~Same~~—Mass transit.**

1368 (1) Level of service. ~~The~~A concurrency evaluation for
1370 mass transit shall be conducted based on the required prior to
1372 issuance of a capacity encumbrance letter. ~~The~~ mass transit LOS
standards specified in section 30-520(7) ~~shall be implemented, and~~
~~concurrency evaluations for mass transit shall be conducted on the~~
~~basis thereof.~~

1374 (2) Method of evaluation prior to encumbrance. In
1376 performing the concurrency evaluation for mass transit ~~in order to~~
~~encumber capacity,~~ the CMO shall determine use the person-trip
1378 handling capacity reported by the primary mass transit provider(s).
If adequate capacity is available, measured by the performance
standards set forth in ~~this section and~~ section 30-520(7), then the
1380 project shall be deemed to be concurrent for mass transit, ~~and~~
~~accordingly, the requested capacity encumbrance letter may be~~
1382 ~~issued. If the person trip capacity reported by the mass transit~~
~~provider does not meet the ; if such performance standards are not~~
1384 ~~met, set forth in this section and section 30_520(7), then the~~
project shall not be deemed to be concurrent for mass transit, ~~and~~
1386 ~~accordingly, the requested capacity encumbrance letter shall not be~~
~~issued.~~

1388 (2) ~~Performance standards.~~ Mass transit LOS will be
1390 maintained by the county based on population and the current
primary service provider's inventory of buses. The county is not
solely responsible for the operations of the current mass transit
provider. Rather, the county along with other jurisdictions in

1392 Central Florida contributes toward this service to offset operating
and capital deficits. The county is financially committed to
1394 continue contributions through 1995, by an adopted interlocal
agreement. The mass transit provider is responsible for adjusting
1396 and reallocating available resources as necessary to maintain the
adopted LOS standard. The present mass transit provider is
1398 pursuing a dedicated source of funding to finance mass transit. The
county will update the capacity availability annually and report the
1400 same in the annual capacity availability report. For mass transit,
one (1) of the following standards will satisfy the concurrency
1402 requirement: (a) The necessary facilities and services are in place
at the time a development permit is issued; (b) a development
1404 permit is issued subject to the condition that the necessary facilities
and services will be in place when the impacts of development
1406 occur; (c) the necessary facilities are under construction at the time
a development permit is issued; and (d) the necessary facilities and
1408 services are guaranteed in an enforceable development agreement
that includes the provisions of F.A.C. rule 9J. 5.005(a)1-2. The
1410 development agreement must guarantee that the necessary facilities
and services will be in place when the impacts of development
1412 occur. The county will update and report the capacity availability
annually, or more frequently as deemed necessary by the CMO.

1414 **Sec. 30-562. Concurrency Evaluation Same—**
Roads Transportation.

1416 (1) Level of service. The concurrency evaluation shall be
conducted based on the transportation LOS standards specified in
1418 section 30-520(6). If the A concurrency evaluation for roads shall
be required prior to the issuance of a capacity encumbrance letter.
1420 The road LOS standards outlined in division 2 of this article shall
apply to this concurrency evaluation for roads.

1422 If the amount of traffic which that would be generated by
the proposed development, plus traffic which that is or will be
1424 generated by existing, permitted, encumbered, and reserved
development (and where data is available, vested development), is
1426 equal to or less greater than the capacity on the affected roadways,
intersections, bikeways, and sidewalks (if applicable) at the
1428 adopted LOS, then the proposed development shall not be deemed
concurrent for transportation; if the adopted LOS is exceeded, then
1430 the proposed development shall not be deemed concurrent for
transportation. and accordingly, the requested capacity
1432 encumbrance letter shall not be issued.

1434 (1) —LOS standards. The road LOS standards outlined in
division 2 of this article shall apply to this concurrency evaluation

1436 for roads. LOS impacts must be determined using generally
1438 accepted standards including the tables in the latest edition of the
1440 FDOT Quality Level of Service Handbook depicting the
1442 generalized peak hour directional volumes and approved LOS
computation tools. A proposed development claiming exempt
status shall be required to submit to the CMO such data as the
CMO shall require for verification of the exempt status of the
proposed development. A part of the data referred to in the
preceding sentence may include development plans.

1444 (2) Method of evaluation. Transportation impacts must
1446 be determined in accordance with Section 163.3180, F.S., as may
1448 be amended, and using generally accepted engineering standards as
1450 documented in the current Orange County Concurrency
1452 Management System (CMS) Methodology. A concurrency
1454 evaluation shall include a traffic study consistent with the
1456 requirements and administrative procedures detailed within the
1458 current Orange County CMS Methodology. This methodology
1460 shall remain consistent with current standards of transportation
1462 engineering practice and the requirements of the comprehensive
1464 plan and shall designate the specific administrative procedures for
1466 arriving at an approved Specific Transportation Analysis
1468 Methodology Plan (STAMP) to support the proposed development.
1470 A preapplication meeting shall be required for all projects with
1472 transportation impacts greater than de minimis, as defined in
section 30-503(2). At this meeting, a list of intersections to be
analyzed will be generated and any requested deviations from the
Orange County CMS Methodology will be discussed. Subsequent
to the meeting, the applicant must submit, in writing, a draft
STAMP for approval. Upon receipt of a draft STAMP,
transportation planning division staff will review it, approve or
deny it, and return it to the applicant marked as approved,
approved with revisions, or denied, identifying in writing any
changes in the draft STAMP that are required. The traffic study
shall be performed according to the approved STAMP. Material
deviations from the approved STAMP may be grounds for
rejection of the traffic study. The required traffic study shall
comply with the Orange County Concurrency Management System
Methodology

1474 ~~(2) Traffic study.~~ A concurrency evaluation shall
include a traffic study. A traffic study shall include:

1476 ~~(a) Summary.~~ Project name, project location
(including location map and parcel identification number),
1478 applicant contact information, parcel owner information (if
different than applicant), proof of ownership of parcel(s).

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~~(b) — Proposed development. Proposed use for the property by land use category and amount of development.~~

~~(c) — Area of influence. The impact area for purposes of evaluating concurrency shall be all road segments within a one (1) mile radius of the project if project site is located within the urban area as determined by the board of county commissioners. The impact area for purposes of evaluating concurrency shall be all road segments within a two and one-half (2½) mile radius of the project if project site is located within the rural area as determined by the board of county commissioners.~~

~~(d) — Proposed project traffic. Traffic to be generated by the proposed development by land use category and amount of development.~~

~~(i) — Trip generation. Trip generation rates shall be based on the latest edition of Institute of Traffic Engineers Trip Generation Manual (ITE Trip Generation Manual) or a county approved trip generation study. All generated trips shall be assumed to be external, unless documented.~~

~~(ii) — Trip distribution. Trip distribution shall be performed to allocate trips to origin and destination land use areas external to the site and may be performed manually or using an appropriate transportation model such as FSUTMS. The assumptions use to allocate trips on the network shall be documented in the traffic study.~~

~~(iii) — Trip assignment. Trip assignment may be performed manually or using FSUTMS or a comparable county approved model. If the manual method is used, the assignment may be done concurrently with distribution. The assignment process shall be based on a review of the land uses within the area of influence. All assumptions shall be documented in the traffic study.~~

~~(e) — Available capacity. Roadway capacity as reported in the concurrency database, which is based on generalized level of service tables as found in the latest edition of FDOT Quality Level of Service Manual, or approved LOS computation tools such as an ART plan or high plan analysis.~~

~~(f) — Special analysis. Any deviation from the traffic study requirements must be supported by documented justification and must be approved by the concurrency review committee.~~

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(3) Performance standards. For transportation, the concurrency requirement will be deemed satisfied if: (a) The necessary facilities and services are in place at the time a building permit is issued; (b) the CIE identifies facilities and services necessary to meet the adopted LOS scheduled to be funded for construction or in place within one (1) year from the date the permit is issued; or (c) the applicant offers to enter into a Proportionate Share Agreement in accordance with Section 163.3180(5), F.S., as amended from time to time.

Sec. 30-563. Concurrency Evaluation ~~Same~~—Public schools.

(1) Level of service. ~~The~~A concurrency evaluation for public school facilities shall be conducted based on the ~~is required prior to the issuance of a capacity encumbrance letter. The public school LOS standards specified in section 30-520(8) shall apply to this concurrency evaluation for public school facilities.~~

~~If the impacts to the school concurrency service area which would be generated by the proposed residential development, plus impacts generated by existing, permitted, encumbered, and reserved development (and where data is available, vested development) would cause the adopted LOS within the affected school concurrency service area to be exceeded, then the requested capacity encumbrance letter shall be denied.~~

(2) Method of evaluation. An application for concurrency evaluation for public schools shall be submitted to the Concurrency Management Office, which shall forward it to the school board to perform the concurrency evaluation.

(a) *Application requirements.* Any applicant seeking approval for a preliminary subdivision plan ("PSP") or a multifamily commercial site plan that is not exempt under section 30-374, shall submit to the county a school concurrency ~~evaluation~~determination application which shall contain a development analysis.

(b) *Development analysis content.* The development analysis shall include:

- (1) Location of the residential development, including applicable tax parcel identification numbers.
- (2) Number of residential units and unit types.
- (3) Phasing schedule (if applicable).

1558 (4) Map showing, as applicable, existing and
proposed zoning classifications and existing and proposed future
1560 land use categories for areas subject to and adjacent to the parcel
for which the concurrency evaluation~~approval~~ is sought.

1562 (5) Any existing request by the county or the
school board for a school site within the parcel.

1564 (6) If the application proposes a school site, the
development analysis must include the estimated date of
1566 availability to the school board; ~~and~~ the provider(s) for on-site and
off-site infrastructure and whether the proposed school site
1568 satisfies the school site selection criteria set forth in article XVIII,
chapter 38 of this Code; and

1570 (7) If the applicant has previously executed a
capacity enhancement agreement, a copy of the agreement must be
1572 included ~~in~~ with the development analysis and the development
analysis must indicate whether the residential development will
1574 exceed the capacity provided for in the capacity enhancement
agreement.

1576 (c) *Review and evaluation.* The county will
review the school concurrency determination application for
1578 completeness, and forward the complete application and
development analysis to the school board for review.

1580 (1) The county may charge applicant a
nonrefundable application fee.

1582 (2) The school board may require
additional information from the applicant.

1584 (3) Within fifteen (15) business days of
~~the~~ receipt of the development analysis, the school board shall
1586 determine whether~~if~~ there is available school capacity for each
school type in the affected school concurrency service area to
1588 accommodate the impacts of the residential development, and shall
issue a written preliminary school concurrency recommendation to
the county consistent with section 18.6 of the interlocal agreement.

1590 (4) ~~In the event that~~ If the school board
finds there is insufficient available school capacity for the school
1592 concurrency service area in which the proposed residential
development is located, and, where applicable, in an adjacent
1594 school concurrency service area, to accommodate the residential
development pursuant to section 18.6 of the interlocal agreement,
1596 the school board shall so state in its preliminary school

1598 concurrency recommendation (preliminary recommendation). The
school board shall offer the applicant the opportunity to enter a
1600 sixty-day period to negotiate a proportionate share mitigation
agreement. Based on the school board preliminary
1602 recommendation of insufficient capacity, the county shall issue a
capacity encumbrance denial letter. If mitigation is agreed upon,
1604 the school board shall enter into an enforceable and binding
proportionate share mitigation agreement with the county and the
1606 applicant and the county may issue a capacity encumbrance letter
pursuant to the terms thereof.

1608 (5) If the school board finds that there is
sufficient available school capacity within the applicable school
concurrency service area, the school board shall issue ~~the a~~
1610 preliminary recommendation so stating. The county may treat the
preliminary recommendation as a final school concurrency
1612 recommendation and ~~in reliance thereon,~~ issue a capacity
encumbrance letter in reliance thereon.

1614 **Secs. 30-564—30-569. Reserved.**

DIVISION 4. - CAPACITY INFORMATION LETTERS

1616 **Sec. 30-570. Purpose.**

A capacity information letter (CIL) is a nonbinding analysis
of existing levels of service for public facilities and services
1618 (excluding public schools) in the vicinity of the parcel identified in
the application. The CIL identifies capacity at the time of issuance;
1620 ~~it the capacity information letter is issued and~~ does not guarantee
capacity in the future or encumber/reserve capacity for any period
1622 of time. ~~The capacity information letter does not purport to analyze~~
1624 ~~the impacts of the applicant's proposed project on public facilities~~
~~or services nor to determine if the existing levels of service are~~
1626 ~~sufficient (i) to permit development of a particular parcel, (ii) to~~
~~authorize the issuance of a capacity encumbrance letter, or (iii) to~~
1628 ~~authorize the issuance of a capacity reservation certificate. Any~~
~~request for a capacity information letter for schools shall be~~
1630 ~~directed to the school board.~~

1632 ~~The i~~ssuance of a capacity information letter does not
relieve the applicant from complying with the remaining
1634 provisions of this article with respect to capacity encumbrance or
capacity reservation.

Sec. 30-571. Application.

1636 *Generally.* An application for a capacity information letter

1638 shall be submitted to the CMO together with the required fee,
which shall be set by resolution adopted by the board of county
1640 commissioners from time to time. Any person seeking a capacity
information letter shall submit the following information to the
1642 CMO on a form prescribed by the CMO. ~~No such application shall
be accepted (or deemed accepted) until it is complete.~~

- (a) Date of submittal;
- 1644 (b) Applicant's name, address and telephone number;
- (c) Parcel I.D. number and legal description.

1646 **Sec. 30-572. Processing of application by CMO.**

1648 Upon receipt of a complete application for a capacity
information letter, the CMO shall ~~access~~ provide the existing ~~levels~~
1650 ~~of service capacity~~ for public facilities and services in the vicinity
of the parcel consistent with division 2 of this article. The CMO
1652 shall issue the capacity information letter within ten (10) calendar
days after receipt of ~~the a complete~~ application.

Sec. 30-573. Contents of capacity information letter.

1654 At a minimum, the capacity information letter shall
contain:

- 1656 (1) Date of issuance;
- (2) Applicant's name, address and telephone number;
- 1658 (3) Parcel I.D. number and legal description;
- (4) Name and location of ~~nearest potable water service~~
1660 provider facility and available capacity, if supplied by the county,
Orange County service area;
- 1662 (5) Name and location of ~~nearest wastewater service~~
provider facility and available capacity, if supplied by the county,
1664 Orange County service area;
- (6) Available capacity of activity-based and resource-
1666 based parks;
- (7) Available capacity of mass transit facilities;
- 1668 (8) Available capacity of solid waste facilities; ~~and~~
- (9) Available capacity of road facilities; and

1670 (10) Available capacity of school facilities.

Secs. 30-574—30-579. Reserved.

1672 **DIVISION 5. - CAPACITY ENCUMBRANCE LETTERS**

Sec. 30-580. Introduction.

1674 A capacity encumbrance letter is a determination by the
1676 CMO that, for a particular parcel, given a specific proposed
1678 development density or intensity and based on the timing of
1680 development by phase and year, the proposed development will be
1682 concurrent at the time the capacity encumbrance letter is issued
1684 and that the CMO has encumbered a specified amount of public
1686 facility or service capacity as specified in the letter. A capacity
encumbrance letter is a prerequisite to a capacity reservation
certificate. In no event shall an applicant encumber a greater
amount of capacity than that necessary to serve the maximum
amount of development permitted on the site under its current
future land use designation on the Comprehensive Plan future land
use map and consistent zoning district.

**Sec. 30-581. Procedure for capacity encumbrance letter
evaluation.**

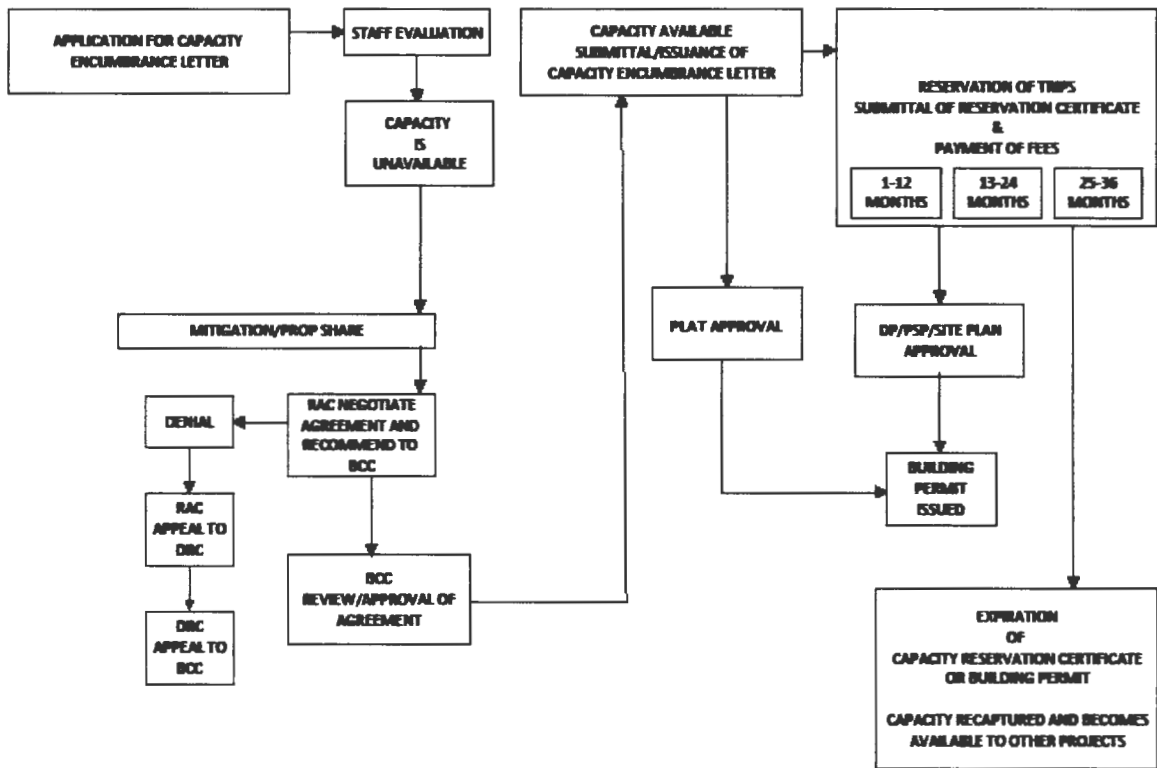
1690 Within twenty-one (21) days after receipt of an complete
1692 application for a capacity encumbrance letter for public facilities
1694 other than schools, the CMO shall process the application, conduct
1696 a concurrency evaluation in accordance with division 3 of this
1698 article, and issue a capacity encumbrance letter or a capacity
1700 encumbrance denial letter. For residential development requiring a
1702 school concurrency evaluation, within twenty-one (21) days after
1704 ~~the receipt of a final school concurrency recommendation from the
school board the CMO shall issue a capacity encumbrance letter or
a capacity encumbrance denial letter. When the CMO reviews the
application, the basis for the review shall be to determine whether
or not the project, and its resulting demands upon public facilities
and services and the resulting impacts upon applicable LOS, will
result in degradation in the LOS of any applicable public facility or
service below the LOS adopted in this article and/or the
Comprehensive Plan.~~

1706 For transportation facilities, Transportation Planning road
1708 concurrency, staff will prepare a general assessment of the
project's impacts and determine if roadways operating below or
projected to operate below the adopted LOS standards according to
the concurrency management database are located within the

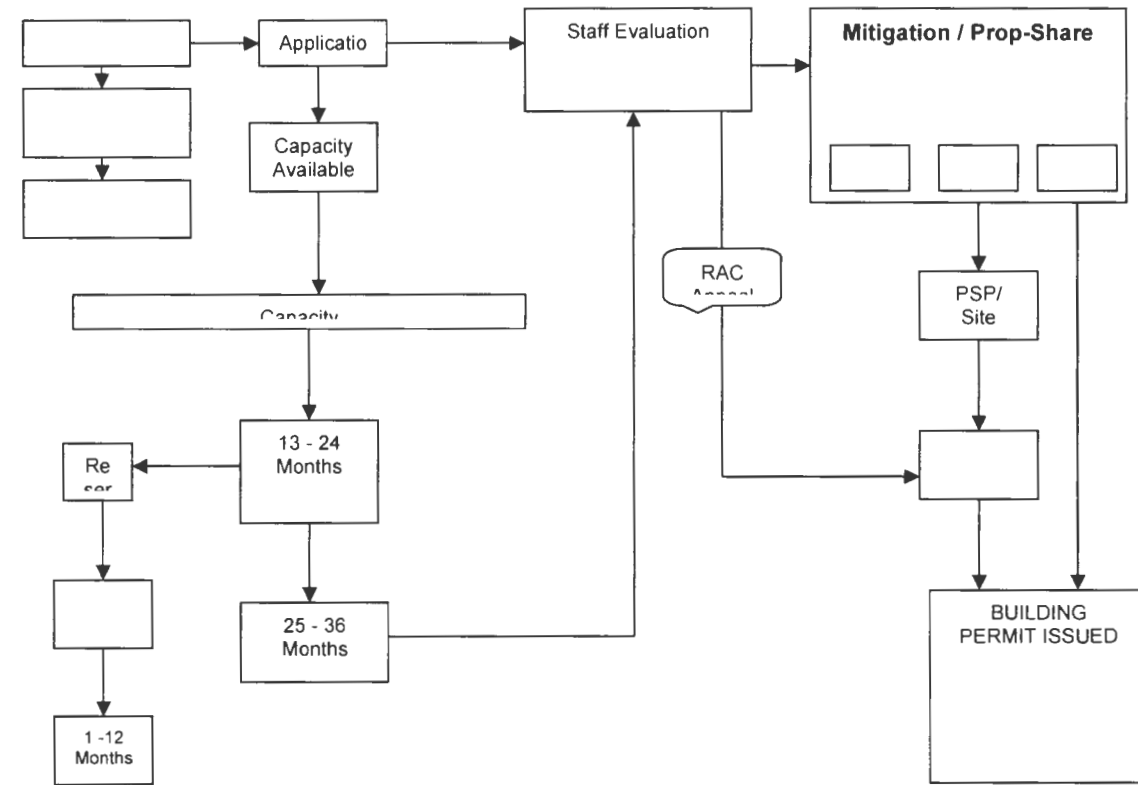
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project's area of influence. If failing facilities are identified within the area of influence, staff will notify the applicant of options to satisfy concurrency, and should the applicant choose to proceed, the applicant will be required to attend a regularly scheduled RAC meeting to negotiate a proportionate share contribution agreement.

SECTION 30-581 TRANSPORTATION CONCURRENCY PROCEDURE FLOW CHART



1716 [THE TABLE BELOW WILL BE DELETED IN THE FINAL ORDINANCE]



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Sec. 30-582. Application for capacity encumbrance letter.

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Generally. An application for a capacity encumbrance letter shall be submitted to the concurrency management office together with the required ~~accompanied by a fee~~ which shall be set by resolution of the board of county commissioners from time to time. Any application ~~seeking for~~ a capacity encumbrance letter shall ~~submit~~ include the following information ~~to the CMO~~, on a form provided by the CMO. No such application shall be accepted (or deemed accepted) until it is complete.

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(1) Property owner's name, address and telephone number (and Agent Authorization form if Applicant is not the owner);

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(2) Applicant's name, address and telephone number;

(3) Parcel I.D. number and legal description;

1732

(4) Land use(s) permitted for the parcel or parcels under the current designation on the Comprehensive Plan future land use map and zoning district;

1734

1736 (5) Proposed use(s) by land use category, square feet
and number and type of units;

1738 (6) Phasing information by proposed uses, square feet
and number of units, if applicable;

(7) Existing use of property;

1740 (8) Acreage of property;

(9) Name of project;

1742 (10) Site design information, if applicable;

1744 (11) Potable water needs for the proposed development
(together with a verification of service letter from the service
provider if the county public utilities is not the service provider);

1746 (12) Wastewater needs for the proposed development
(together with verification of service letter from the service
1748 provider if the county public utilities is not the service provider);

(13) Traffic information specified in section 30-562;

1750 (14) Public school information specified in section 30-
563;

1752 (15) Proposed geographic allocation of capacity by legal
description, if applicable; and

1754 (16) Such other information as deemed necessary by the
county.

1756 **Sec. 30-583. Action by CMO if all public facilities and
services found to be concurrent.**

1758 (a) If, during the concurrency evaluation, the CMO
determines that all public facilities and services are concurrent,
1760 ~~concurrent with conditions, or are presumed to be concurrent~~
~~pursuant to divisions 3 and 5 of this article,~~ the CMO shall issue
1762 the capacity encumbrance letter, which shall advise the applicant
that, for non-residential projects, capacity is available for
1764 reservation or for issuance of a building permit ~~or, for public~~
~~schools, that.~~ For residential projects required to plat, capacity is
1766 ~~available for reservation~~ must be reserved prior to plat approval.
The ~~effective date of encumbrance of capacity shall be deemed to~~
1768 ~~be the date of~~ the capacity encumbrance letter shall be the effective
date of encumbrance. If the applicant seeks a reservation during

1770 the encumbrance period, capacity shall be reserved by issuance of
1772 a capacity reservation certificate in accordance with division 6 of
1774 this article. If the applicant is not the property owner, a copy of the
capacity encumbrance letter shall also be sent to the property
owner. At a minimum, the capacity encumbrance letter shall
include:

- 1776 (1) Property owner's name; and address;
- (2) Applicant's name; and address;
- 1778 (3) Parcel I.D. number and legal description;
- (4) Land use(s) permitted for the parcel or parcels
1780 under the current designation on the Comprehensive Plan future
land use map and zoning district;
- 1782 (5) Amount of capacity encumbered for each facility or
service;
- 1784 (6) The date the capacity encumbrance letter was
issued; and
- 1786 (7) The expiration date upon which of the capacity
1788 encumbrance letter ~~expires, unless, prior to such expiration date,~~
~~either (i) a building permit is issued, or (ii) the encumbered~~
1790 ~~capacity is reserved by the issuance of a capacity reservation~~
~~certificate.~~

(b) In order to maintain the effectiveness of the capacity
1792 encumbrance letter, the capacity encumbrance letter holder shall be
1794 required to notify the CMO anytime the property described in the
capacity encumbrance letter undergoes a lot split, sale, or any other
1796 modification to the ownership, legal description, or lot
configuration.~~The foregoing notwithstanding, for the period from~~
1798 ~~November 13, 2009, through March 31, 2013, any capacity~~
~~encumbrance letter existing and valid during the period from~~
1800 ~~January 6, 2009, through March 31, 2013, shall be valid for a~~
~~period of three hundred sixty five (365) days from the date of~~
1802 ~~issuance. No extensions shall be granted in addition to the three~~
~~hundred sixty five (365) days; if an applicant wishes to maintain~~
1804 ~~the capacity, the applicant will be required to obtain a capacity~~
~~reservation certificate.~~

Sec. 30-584. Use of encumbered capacity.

1806 If a capacity reservation certificate is issued within the
encumbrance period and the capacity encumbered is greater than

1808 the capacity reserved, the excess encumbered capacity shall revert
1810 to the available capacity bank on the date the capacity reservation
1812 certificate is issued. Likewise, if a building permits is are issued
1814 for the entire project, or for public schools, a plat or commercial
1816 site plan is approved, within the encumbrance period and the
1818 capacity encumbered is greater than the capacity committed to the
1820 building permits, plat, or commercial site plan, the excess
1822 encumbered capacity shall revert to the available capacity bank on
1824 the date the last building permit is issued, or ~~for public schools,~~
1826 following ~~the~~ approval of the plat or commercial site plan. When a
valid building permit is issued for a project ~~utilizing~~ using
encumbered capacity, that capacity shall become permitted
capacity and shall not be recaptured unless the building permit
lapses or expires without ~~the~~ issuance of a certificate of occupancy.
When a valid capacity reservation certificate is issued for a project
~~utilizing~~ using encumbered capacity, that capacity shall become
reserved capacity and shall not be recaptured unless (i) the capacity
reservation certificate lapses or expires without ~~the~~ issuance of a
valid building permit, or (ii) a building permit is issued but lapses
or expires without issuance of a certificate of occupancy.

1828 **Sec. 30-585. Action by CMO if one or more public facilities
determined not to be concurrent.**

1830 If, during the concurrency evaluation, the CMO determines
1832 that one (1) or more public facilities or services lacks sufficient
1834 available capacity to accommodate the applicant's request, the
1836 CMO shall issue a capacity encumbrance denial letter which shall
1838 advise the applicant that capacity is not available for one (1) or
1840 more public facilities or services. The applicant shall have sixty
1842 (60) calendar days from ~~the~~ issuance of a capacity encumbrance
1844 denial letter to submit an application (i) ~~to be placed on the~~
~~capacity waiting list where applicable,~~ (ii) to pursue the
concurrency denial/mitigation process outlined in division 8 of this
article, ~~and/or (iii) to pursue the proportionate share contribution~~
~~(to remedy a transportation facilities deficiency only), and/or (iv)~~
~~to pursue proportionate share mitigation (to remedy a public school~~
~~facilities deficiency only) as outlined in division 8 of this article.~~
At a minimum, the denial letter shall include:

- 1846 (1) Property owner's name, and address;
- (2) Applicant's name, and address;
- (3) Parcel I.D. number and legal description;
- 1848 (4) Land use(s) permitted for the parcel or parcels

1850 under the current designation on the Comprehensive Plan future
1851 land use map and current zoning district;

1852 (5) Proposed use(s) by land use category, square feet
and number of units;

1854 (6) The public services or facilities determined not to
be concurrent, ~~including the level of the deficiency, if known; and~~

1856 (7) The options available to the applicant including, but
not necessarily limited to:

1858 (i) ~~Submitting an application to be placed on the~~
~~applicable capacity waiting list;~~

1860 (ii) ~~Submitting~~ submit an application for the
concurrency appeal/mitigation process outlined in division 8 of this
article;

1862 (iii) ~~Submitting an application for proportionate share~~
~~contribution (to remedy a transportation facilities deficiency only)~~
1864 ~~as outlined in division 8 of this article; and~~

1866 (iv) ~~For purposes of school concurrency, negotiating a~~
~~proportionate share mitigation agreement with the school board~~
~~and the county in accordance with division 8 of this article.~~

1868 **Sec. 30-586. ReservedCapacity waiting list.**

1870 (1) ~~Applicants who receive a capacity encumbrance~~
~~denial letter due to insufficient capacity within an applicable~~
1872 ~~service area may elect to be placed on the capacity waiting list.~~
~~The county does not maintain a capacity waiting list for school~~
1874 ~~capacity. Placement on the capacity waiting list will serve to~~
~~confirm a valid application for a capacity encumbrance letter and~~
~~will serve to ensure an equitable "first come first served"~~
1876 ~~processing of applications. Projects on the capacity waiting list~~
~~shall be offered capacity as it becomes available on a "first come-~~
1878 ~~first served" basis. Applicants will be notified by certified mail that~~
~~capacity is available for allocation to their specific project and~~
1880 ~~advised as to any additional information or documentation required~~
~~to facilitate updating and final review of their application. If the~~
1882 ~~available capacity is insufficient to accommodate the project as a~~
~~whole, the CMO shall nevertheless offer the available capacity to~~
1884 ~~the applicant, and the applicant may:~~

1886 (a) ~~Reserve the available capacity by payment~~
~~of the required fee to obtain issuance of a capacity encumbrance~~

letter as respects the then available capacity, and either:

1888 (i) ~~Remain in place on the waiting list~~
and ~~continue waiting for additional capacity, or~~

1890 (ii) ~~For transportation facilities~~
1892 ~~deficiencies only, utilize the proportionate share contribution for~~
~~the additional capacity required for the specific parcel.~~

1894 (2) ~~Reject the offer of capacity, in which event the~~
~~available capacity shall be offered to the next applicant on the~~
~~waiting list.~~

1896 (a) ~~Within thirty (30) days following receipt of~~
1898 ~~an applicant of a written offer of capacity, the applicant shall (i)~~
~~supply such additional information or otherwise finalize the~~
1900 ~~pending application as required by the CMO, (ii) pay the required~~
~~fee for issuance of the capacity encumbrance letter, and (iii), if~~
1902 ~~applicable, submit a request to pursue the proportionate share~~
~~contribution for the provision of transportation facilities only.~~

1904 (b) ~~Failure to accept the offered capacity by~~
1906 ~~timely providing the updating information requested by the CMO~~
~~and paying the applicable capacity encumbrance fee will result in~~
~~non-issuance of the capacity encumbrance letter and removal of~~
~~the applicant from the capacity waiting list.~~

1908 **Sec. 30-587. Transfer of encumbered capacity.**

1910 Encumbered capacity shall run with the property described
1912 in the capacity encumbrance letter and such capacity encumbrance
1914 letter may not be sold, assigned, transferred to property not
included in the legal description provided by the applicant, or
1916 conveyed separate or apart from the real property described in
1918 the application for the capacity encumbrance letter. However, if during
1920 the encumbrance period the applicant submits an application for a
1922 building permit or an application for a capacity reservation
1924 certificate, the applicant may, as a part of such application,
designate the amount of capacity allocated to portions of the
property, such as lots, blocks, parcels or tracts, included in the
application. ~~Moreover, a capacity encumbrance letter shall be~~
~~deemed in all respects appurtenant to the real property described~~
~~therein and to which it applies. A capacity encumbrance letter may~~
~~not be sold, assigned, transferred or conveyed separate or apart~~
~~from the real property to which it relates and which is described in~~
~~the capacity encumbrance letter.~~

1926 The foregoing ~~Notwithstanding the preceding sentence, a~~

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capacity encumbrance letter, and all rights and obligations appertaining thereto, may be collaterally assigned as security for a loan encumbering the real property described in, ~~and which is the subject of~~, the capacity encumbrance letter, provided that, as a precondition to the effectiveness of such collateral assignment, application must be made to the CMO, ~~utilizing a form prescribed by the CMO for such purpose~~, requesting authorization to make such collateral assignment of all rights, duties and obligations under the capacity encumbrance letter. The CMO may approve or ~~disapprove~~ deny such application and, in connection with any approval, may impose conditions with respect to the effectiveness of such collateral assignment; ~~the approval, disapproval or approval with conditions~~ any such decision shall be in writing and signed by the CMO. The collateral assignment shall vest in the collateral assignee as security interest in the capacity encumbrance letter, but the collateral assignee shall not be deemed to have acquired title to the capacity encumbrance letter ~~until and unless~~ the collateral assignee acquires fee title ~~in and to~~ the property described in the capacity encumbrance letter and the county receives written ~~notice~~ documentation from the collateral assignee evidencing that it has acquired such fee simple ~~interest, together with copies of such legal documents evidencing the acquisition of such fee title by the collateral assignee~~, at which time, the CMO shall reissue the capacity encumbrance letter, under its current terms, to the collateral assignee as fee simple title holder of the property. ~~However, in no event shall such~~ The reissuance to a collateral assignee of the capacity encumbrance letter shall not act to extend the original encumbrance period, and the reissued capacity encumbrance letter shall expire on the same date as the original letter would have expired. The CMO shall not be required to furnish any written notices to the collateral assignee; ~~specifically, but not by way of limitation, the CMO shall not be required to notify the collateral assignee of the expiration of a capacity encumbrance letter, notwithstanding that the effect of the expiration of the one hundred twenty day encumbrance period would be termination of the capacity encumbrance letter and return of the capacity to the available capacity bank.~~

The continued effectiveness of the collateral assignment shall be conditioned upon the requirement that the collateral assignee notify the CMO anytime the property described in the capacity encumbrance letter undergoes a lot split, sale, or any other modification to the ownership, legal description, or lot configuration.

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Sec. 30-588. Encumbrance Period; Expiration of capacity encumbrance letter.

If the capacity encumbrance letter expires prior to issuance of either a capacity reservation certificate in accordance with division 6 of this article or a building permit using the encumbered capacity, the capacity shall revert to the available capacity bank as described in division 7 of this article.

A capacity encumbrance letter shall be valid for a period of one hundred eighty (180) days following the date of the letter (the "encumbrance period") and may be extended by the CMO for successive thirty-day periods not to exceed a total of an additional one hundred eighty (180) days; provided, however, in no event shall an extension be granted if the capacity encumbered affects a failing or deficient roadway segment.

For school concurrency, the capacity encumbrance letter shall be valid for one hundred eighty (180) days from the date of issuance of the letter and may be extended up to an additional one hundred eighty (180) days upon applicant request and written approval by the county and notice to the school board, provided that applicant demonstrates to the county that applicant is proceeding in good faith to obtain necessary development approvals.

Sec. 30-589. Reserved.

DIVISION 6. - CAPACITY RESERVATION CERTIFICATE

Sec. 30-590. Introduction.

The purpose of the capacity reservation process is to allow property owners and developers to ensure that capacity is available when ~~it is needed for a particular project and, providing to provide~~ a higher degree of certainty during the construction financing process.

Sec. 30-591. Application for capacity reservation certificate.

Generally. An application for a capacity reservation certificate for public facilities other than schools (for schools, see section 30-599) shall be submitted to the CMO ~~and shall be accompanied by a valid capacity encumbrance letter and the capacity reservation appropriate application fee. The capacity reservation fee shall be~~ as established by resolution adopted by the board of county commissioners from time to time. At a minimum,

- 2010 the application shall include:
- 2012 (1) Property owner's name, address and telephone number;
- (2) Applicant's name, address and telephone number;
- 2014 (3) Parcel I.D. number and legal description;
- 2016 (4) Land use(s) permitted for the parcel or parcels under the current designation on the Comprehensive Plan future land use map and current zoning district;
- 2018 (5) Proposed use(s) by land use category, square feet and number of units;
- 2020 (6) Phasing information by proposed uses, square feet and number of units, if applicable;
- 2022 (7) Existing or prior use of property, If prior use, date of discontinuance or demolition, as applicable, of prior use;
- 2024 (8) Acreage of property;
- 2026 (9) Name of DRI, PD, subdivision, office park, if applicable;
- (10) Site design information, if applicable;
- 2028 (11) Whether wastewater and potable water sewer capacity has been reserved for the proposed development;
- 2030 (12) ~~Written consent~~ Agent authorization from of the property owner, if different from applicant;
- 2032 (13) A copy of a valid capacity encumbrance letter;
- (14) The reservation period requested; and
- 2034 (15) Allocation of capacity, by legal description, if applicable.
- 2036 For schools, the development analysis referenced in section 30-563 shall be updated as necessary and shall serve as the application for a certificate of school concurrency.
- 2038
- Sec. 30-592. Issuance of capacity reservation certificate.**
- 2040 Within fourteen (14) calendar days of ~~the~~ receipt of a

2042 complete application for a capacity reservation certificate,
2044 accompanied by a valid capacity encumbrance letter and the
2046 required ~~applicable fee, and provided the project otherwise meets~~
2048 all applicable rules and regulations, the CMO shall issue a capacity
reservation certificate. The capacity reservation certificate shall
describe the amount of capacity reserved and length of time for
which the capacity shall be reserved. Upon issuance of ~~the~~
capacity reservation certificate, the CMO shall reserve the
requested capacity.

2050 The continued effectiveness of the capacity reservation
2052 certificate shall be conditioned upon the requirement that the
2054 certificate holder notify the CMO anytime the property described
in the capacity reservation certificate undergoes a lot split, sale, or
any other modification to the ownership, legal description, or lot
configuration.

2056 **Sec. 30-593. Reservation time period.**

2058 (1) ~~Types—Length of capacity-reservations.~~ Capacity
shall be reserved for a specified time frame under certain
conditions. Pursuant to this section, an applicant may request one
2060 (1) of two (2) different types of capacity reservations:

2062 (a) ~~Fixed time frame capacity reservation certificate.~~ A
fixed time frame a capacity reservation certificate shall ~~allow the~~
applicant to reserve capacity for up to three (3) years. ~~Reservations~~
2064 may be made for one (1), two (2) or three (3) years. A specific
quantity of capacity must be requested for use during each year of
2066 the reservation time frame. Capacity for fixed time frame capacity
reservation certificates shall be reserved based on the standards
2068 and criteria for concurrency evaluations identified in division 3 of
this article. For accounting purposes, the CMO shall reserve the
2070 requested capacity for each year from the appropriate capacity
bank. ~~Except as provided in sections 30-594 and 30-595 below, a~~
2072 ~~fixed time frame capacity reservation certificate will allow the~~
applicant to utilize the capacity reserved for a particular year only
2074 during the one year period specified in the certificate An applicant
can pre-pay its capacity reservation fees and continue building
2076 (provided all other applicable rules and regulations are being met)
up to the amount pre-paid, not to exceed the amount reserved.

2078 (b) ~~Flexible time frame capacity reservation~~
2080 ~~certificate.~~ A flexible time frame capacity reservation certificate
shall allow the applicant to reserve capacity for three (3) years
2082 based on the standards and criteria for concurrency evaluations
identified in division 3 of this article. The total capacity requested

2084 must be reserved for the full duration of the reservation. However,
2086 for accounting purposes, the CMO shall allocate the requested
2088 capacity equally for each year from the appropriate capacity bank.
A flexible time frame capacity reservation certificate will allow the
applicant to utilize the capacity at any time during the term of the
certificate.

2090 (2) *Expiration.* Upon expiration of the time frame set
2092 forth in the capacity reservation certificate, if a building permit
was not obtained within the reservation period unless extended
pursuant to Section 30-595, the CMO shall transfer the reserved
capacity to the available capacity bank.

2094 (a) — If a building permit was issued, but the
2096 project has not completed build-out, the applicant can request from
the CMO, an extension, not to exceed three (3) additional years,
2098 providing that all capacity reservation fees have been paid for the
project at the time of the extension request and there is not a
capacity waiting list within the location of the project.

2100 (b) — Notwithstanding the existence of a capacity
2102 waiting list, if the applicant can demonstrate that the development
is proceeding in good faith, the CMO may grant an extension.
2104 Failure of the development to proceed in good faith during any
extension of the reservation period shall be grounds for the CMO
2106 to terminate the extension after thirty (30) days' written notice
of intent to terminate has been given to the applicant, and providing
2108 the applicant is given an opportunity to be heard on the issue of
whether the development has proceeded in good faith.

2110 (c) — If the county delays progress on the
2112 applicant's project through no fault of the applicant,
notwithstanding the existence of a capacity waiting list, the
applicant may request an extension of the capacity reservation
certificate, which may be granted by the CMO.

2114 (d) — Notwithstanding the existence of a capacity
2116 waiting list, if the applicant has been required to execute a capacity
enhancement agreement with the School Board of Orange County,
2118 and the terms of that agreement result in the delay of the
applicant's development (through no fault of the applicant), then
2120 the applicant may request an extension of the capacity reservation
certificate, which may be granted by the CMO.

2122 **Sec. 30-594. Shifting of capacity under fixed time frame
capacity reservation certificate Reserved.**

2124 ~~(1) Shifting of capacity is the movement of reserved~~
2126 ~~capacity from one (1) or more specific yearly time frames to other~~
2128 ~~specific yearly time frames. In order to shift capacity, an~~
2130 ~~application to shift capacity, either forwards or backwards, shall be~~
~~submitted to the CMO at least thirty (30) days prior to the~~
~~expiration of the specific yearly time frame into which or out of~~
~~which the capacity was originally allocated pursuant to the~~
~~capacity reservation certificate. In evaluating an application to shift~~
~~capacity the CMO shall consider:~~

2132 ~~(a) Whether the applicant has previously shifted~~
~~capacity;~~

2134 ~~(b) The project's current status and degree to~~
~~which the applicant is deviating from his phasing schedule;~~

2136 ~~(c) The stated reasons for the deviation from the~~
~~phasing schedule;~~

2138 ~~(d) The length of any applicable waiting list;~~
~~and~~

2140 ~~(e) The funds expended by the applicant prior to~~
~~the initiation of vertical construction.~~

2142 ~~(f) Whether the applicant has applied for or has~~
2144 ~~made a proportionate share contribution for the provision of~~
~~transportation facilities only.~~

2146 ~~(2) Where necessary to ensure equitable allocation of~~
~~capacity, the CMO may approve an application to shift capacity~~
2148 ~~with conditions. If an application to shift capacity is denied or if~~
~~the applicant disagrees with the conditions, the denial or the~~
2150 ~~conditions may be appealed in accordance with the provisions of~~
~~division 8 of this article.~~

2152 ~~(3) No unused capacity reserved pursuant to the~~
~~capacity reservation certificate may be carried forward beyond a~~
2154 ~~total of three (3) years from the date of the original issuance of~~
~~such certificate unless an extension has been applied for and~~
~~received from the CMO as outlined in subsection 30-593(b).~~

2156 **Sec. 30-595. Extension of fixed time frame capacity**
reservation certificates.

2158 ~~(1) Not later than At least thirty (30) days before prior~~
2160 ~~to the expiration date of a fixed time frame capacity reservation~~
~~certificate originally issued for one (1) year or two (2) years, the~~

2162 applicant may request an extension, not to exceed twelve (12)
2163 months at a time, up to an additional three (3) years. ~~In connection~~
2164 ~~with any requested extension, a limit may be placed on the amount~~
~~of capacity which may be carried forward and allocated to the~~
2165 ~~twelve-month extension term.~~ The CMO shall determine whether
2166 all fees have been paid and whether the extension is warranted,
based on criteria including, but not limited to, the following:

- 2168 (a) ~~Size of the project; and~~
- (b) ~~Amount of capacity requested; and~~
- 2170 (c) ~~Phasing; and~~
- (d) ~~Location of the project; and~~
- 2172 (e) ~~Capacity availability within the service area~~
of influence; and
- 2174 (bf) Reasons for requesting the reservation time
period extension; ~~and~~
- 2176 (cg) Whether the developer exercised good faith
in attempting to secure issuance of a building permit for a structure
2178 other than a model home; and;
- (hd) For the provision of transportation facilities
2180 only. Whether the applicant has applied for or has made a
2182 proportionate share contribution for the provision of transportation
facilities only.

2184 (2) ~~No u~~Unused capacity reserved pursuant to the
2185 capacity reservation certificate may not be carried forward beyond
2186 a total of ~~three (3)~~six (6) years from the date of ~~the~~ original
2187 issuance; provided, however, if additional extensions are granted
2188 pursuant to state action, of such extensions shall not count toward
the 6 year period certificate unless an extension has been applied
2190 for and received from the CMO as outlined in subsection 30-59
3(2).

2192 **Sec. 30-596. Capacity reservation fees for fixed time frame**
~~capacity reservation certificates.~~

2194 (1) A capacity reservation fee shall be required ~~to be~~
~~paid~~ as a condition of capacity reservation. The capacity
2195 reservation fee shall be an amount equivalent to the then applicable
2196 ~~transportation~~ impact fee calculated on the basis of the total
capacity reserved for the original term of the capacity reservation

2198

certificate:

2200 (a) Less any outstanding impact fee credits applicable to the property; and

2202 ~~(b) Less any proportionate share contribution for the provision of transportation facilities only; and~~

2204 (be) For a project which that has been
2206 determined to be received a certificate of affordability from
2208 affordable housing by the county's housing and community
2210 development division and housing assistance department, less any
2212 transportation and school impact fees due the payment of which
2214 has been exempted by an approved Developer's Agreement for
2216 Impact Fee Exemption for the affordable housing units within the
2218 project, provided that, for purposes of this subsection only, the
calculation of the amount of such transportation impact fees shall
not be reduced by the discounts authorized by Ordinance No. 92-
40. In the event the reduction in capacity reservation fees pursuant
this paragraph results in zero capacity reservation fees being due,
capacity for such project shall be reserved upon the later to occur
of: payment of any proportionate share contribution
(transportation), payment of any proportionate share mitigation
(schools), or final approval of the Developer's Agreement for
Impact Fee Exemption.

2220 However, in the event the capacity reservation certificate is
2222 not used and the applicant would otherwise be entitled to a refund,
2224 the appropriate ~~traffic impact fee credit amount~~ shall be ~~re~~credited
2226 to the applicant in accordance with subsection (2) hereof. Capacity
may be reserved for one (1) year, two (2) years or three (3) years.
The allocation of capacity reservation fees shall be based upon the
2228 duration of the original term of the capacity reservation certificate
with the applicable capacity reservation fee prorated equally over
2230 the original term of the reservation. ~~For example, if the fixed time~~
~~frame capacity reservation certificate provides for a reservation of~~
~~capacity. Therefore, over a three-year term, thirty-three and one-~~
2232 ~~third (33 1/3) percent (33 1/3 %) of the capacity reservation fee~~
~~shall be due at the time of filing the application for capacity~~
2234 ~~reservation is filed; thirty-three and one-third (33 1/3) percent (33~~
~~1/3 %) of the capacity reservation fee shall be due on or before no~~
2236 ~~later than the expiration of one (1) year from the date of issuance~~
~~of the capacity reservation certificate is issued; and the balance of~~
2238 ~~the capacity reservation fee shall be due on or before no later than~~
~~the expiration of two (2) years from the date of issuance of the~~
2240 ~~capacity reservation certificate is issued. No capacity reservation~~
~~certificate shall be issued until and unless the required portion of~~

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the capacity reservation fee is paid in full. Failure to pay the appropriate portion of the capacity reservation fee ~~within one hundred twenty (120) days from the date of issuance prior to the expiration of the capacity encumbrance letter so that the capacity reservation certificate may be timely issued~~ shall be deemed a withdrawal of the capacity reservation certificate application for a ~~capacity reservation certificate~~, and the CMO shall return the capacity to the available capacity bank.

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The applicant shall be required to pay all impact fees due at the time of, and as a condition of, receiving a building permit, pursuant to the impact fee rate schedule in effect at the time a building permit is issued. However, the capacity reservation fee paid by the applicant shall be credited toward the impact fees due at the time of issuance of the building permit is issued on a dollar-for-dollar basis.

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The capacity reservation fees collected pursuant to this section shall be kept separate from other county revenue of the county. ~~They shall be kept with road impact fees, but they and~~ shall be separately earmarked from ~~road~~ impact fees.

2260

EXAMPLE NO. 1

2262

Capacity Reservation Fees in Connection with Fixed Time Frame One Year Capacity Reservation Certificate

	Year 1
Fee equal to	100% of transportation impact fees.

2264

EXAMPLE NO. 2

2266

Capacity Reservation Fees in Connection with Fixed Time Frame Two Year Capacity Reservation Certificate

	Year 1	Year 2
Fee equal to	50% of transportation impact fees.	50% of transportation impact fees.

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EXAMPLE NO. 3

*Capacity Reservation Fees in Connection
with Fixed Time Frame Three Year Capacity Reservation Certificate*

	Year 1	Year 2	Year 3
Fee equal to	33 1/3 % of transportation impact fees.	33 1/3 % of transportation impact fees.	33 1/3 % of transportation impact fees.

~~(2) Refund of unused fixed time frame capacity reservation fee.~~ Capacity reservation fees shall be refundable as set forth in this paragraph. The CMO shall refund ~~one hundred (100)~~ ninety (90) percent of the capacity reservation fee not applied as a credit against impact fees in accordance with subsection 30-596(1). In the event if (1) the county maintained the capacity reservation account for was reserved for a one year (twelve (12) months) reservation period or less or, (2) if the project for which capacity was reserved has been built out and the capacity reservation fees have decreased since the inception of the capacity reservation account, ~~the CMO shall refund one hundred (100) percent of the capacity reservation fee not applied as a credit against impact fees in accordance with subsection 30-596(1) if the capacity was reserved for a two year (twenty four (24) months) reservation period. The CMO shall refund ninety (90) percent of the capacity reservation fee not applied as a credit against impact fees in accordance with subsection 30-596(1) if the capacity was reserved for a three year (thirty six (36) months) reservation period.~~ Refunds shall be granted only if and to the county extent that capacity reservation fees are has subsequently received capacity reservation fees by the county from third parties in such amounts as are required necessary to affect satisfy any requested refund. Those applicants awaiting refunds shall be placed on a list, and refunds shall be made given to applicants in the order in which their names appear on such list, provided that funds are available to affect satisfy such refunds ~~as specified in the preceding sentence.~~

~~(3) In the event legislation is passed eliminating transportation concurrency and providing for mobility requirements, applicants with existing capacity reservation certificates may be given the option to apply any existing capacity reservation fees towards any future mobility requirements. The specific terms of any such arrangement shall be memorialized in a development agreement approved by the board of county commissioners.~~

2306 **Sec. 30-597. Reserved Capacity reservation fees for flexible**
2307 **time frame capacity reservation certificates.**

2308 (1) ~~A capacity reservation fee shall be required to be~~
2309 ~~paid as a condition of capacity reservation. The capacity~~
2310 ~~reservation fee shall be an amount equivalent to the then applicable~~
2311 ~~transportation impact fee calculated on the basis of the total~~
2312 ~~capacity reserved:~~

2313 (a) ~~Less any outstanding impact fee credits~~
2314 ~~applicable to the property; and~~

2315 (b) ~~Less any proportionate share contributions~~
2316 ~~for the provision of transportation facilities only; and~~

2317 (c) ~~For a project which has received a certificate~~
2318 ~~of affordability from the county's community development and~~
2319 ~~housing assistance department, less any transportation impact fees~~
2320 ~~due for the affordable housing units within the project, provided~~
2321 ~~that, for purposes of this subsection only, the calculation of the~~
2322 ~~amount of such transportation impact fees shall not be reduced by~~
2323 ~~the discounts authorized by Ordinance No. 92-10.~~

2324 ~~However, in the event the capacity reservation certificate is~~
2325 ~~not used and the applicant would otherwise be entitled to a refund,~~
2326 ~~the appropriate traffic impact fee credit shall be recredited to the~~
2327 ~~applicant. The capacity reservation fee may not be prorated over~~
2328 ~~the three year term of the capacity reservation certificate. No~~
2329 ~~capacity reservation certificate shall be issued until and unless the~~
2330 ~~required capacity reservation fee is paid in full. Failure to pay the~~
2331 ~~capacity reservation fee within one hundred twenty (120) days~~
2332 ~~from the date of issuance of the capacity encumbrance letter so that~~
2333 ~~the capacity reservation certificate may be timely issued shall be~~
2334 ~~deemed a withdrawal of the application for a capacity reservation~~
2335 ~~certificate, and the CMO shall return the capacity to the available~~
2336 ~~capacity bank.~~

2337 ~~The applicant shall be required to pay all impact fees due at~~
2338 ~~the time of, and as a condition of, receiving a building permit,~~
2339 ~~pursuant to the impact fee rate schedule in effect at the time a~~
2340 ~~building permit is issued. However, the capacity reservation fee~~
2341 ~~paid by the applicant shall be credited toward the impact fees due~~
2342 ~~at time of issuance of the building permit on a dollar for dollar~~
2343 ~~basis.~~

2344 ~~The capacity reservation fees collected pursuant to this~~
2345 ~~section shall be kept separate from other revenue of the county.~~

2346 They shall be kept with road impact fees, but they shall be
separately earmarked from road impact fees.

2348 ~~(2) Refund of unused flexible time frame reservation~~
2350 ~~fee. Reservation fees shall be refundable as set forth in this~~
2352 ~~paragraph. The CMO shall refund ninety (90) percent of the~~
2354 ~~capacity reservation fee not applied as credit against impact fees in~~
2356 ~~accordance with subsection 30-597(1). Refund shall be granted~~
2358 ~~only if and to the extent that capacity reservation fees are~~
~~subsequently received by the county from third parties in such~~
~~amounts as are required to affect any requested refund. Those~~
~~applicants awaiting refunds shall be placed on a list, and refunds~~
~~shall be made to applicants in the order in which their names~~
~~appear on such list, provided that funds are available to affect such~~
~~refunds as specified in the preceding sentence.~~

2360 ~~(3) In the event legislation is passed eliminating~~
2362 ~~transportation concurrency and providing for mobility~~
2364 ~~requirements, applicants with existing capacity reservation~~
2366 ~~certificates may be given the option to apply any existing capacity~~
~~reservation fees towards any future mobility requirements. The~~
~~specific terms of any such arrangement shall be memorialized in a~~
~~development agreement approved by the board of county~~
~~commissioners.~~

2368 **Sec. 30-598. Transfer of certificates.**

2370 Unless otherwise superseded by an agreement approved by
2372 the Board of County Commissioners, a capacity reservation
2374 certificate continues to be valid according to its specific terms and
conditions only for the property specifically identified and
2376 described therein. During the reservation period, capacity
2378 Capacity may be reassigned or allocated within the boundaries of the
property described in the capacity reservation certificate, but such
reassignment or reallocation shall be accomplished only by the
CMO following a written application request by the ~~CMO~~
applicant.

2380 A capacity reservation certificate ~~shall be deemed in all~~
2382 ~~respects appurtenant to runs with~~ the real property described
2384 ~~therein and to which it applies. A in the~~ capacity reservation
2386 ~~certificate and~~ may not be sold, assigned, transferred or conveyed
separate or apart from the real property ~~to which it relates and~~
~~which is described therein the capacity reservation certificate.~~
Notwithstanding the preceding sentence, a capacity reservation
certificate, and all rights and obligations appertaining thereto, may
be collaterally assigned as security for a loan encumbering the real

2388 property described in, ~~and which is the subject of~~ the capacity
2390 reservation certificate, provided that, as a precondition to the
2392 effectiveness of such collateral assignment, ~~notice application~~ must
2394 be made to the CMO, ~~utilizing a form prescribed by the CMO for~~
2396 ~~such purpose~~, requesting authorization to make return receipt from
2398 ~~the CMO of such collateral assignment of regarding~~ all rights,
2400 duties and obligations under the capacity reservation certificate.
2402 The CMO may approve or deny such application and, in
2404 connection with any approval, may impose conditions with respect
2406 to the effectiveness of such collateral assignment. The collateral
2408 assignment shall vest in the collateral assignee as security interest
2410 in the capacity reservation certificate, but the collateral assignee
2412 shall not be deemed to have acquired title to the capacity
2414 reservation certificate ~~until and unless~~ the collateral assignee
2416 acquires fee title ~~in and~~ to the property described in the capacity
2418 reservation certificate, and the county receives written
2420 ~~documentation notice~~ from the collateral assignee evidencing that
2422 it has acquired such fee simple ~~interest, together with copies of such~~
2424 ~~legal documents evidencing the acquisition of such fee title by the~~
2426 ~~collateral assignee~~, at which time, the CMO shall reissue the
2428 capacity reservation certificate, under its current terms, to the
2430 collateral assignee as fee simple title holder of the property. The
2432 reissuance to a collateral assignee of the capacity reservation
certificate shall not act to extend the original reservation period.

2412 The continued effectiveness of the collateral assignment
2414 shall be conditioned on a requirement that the collateral assignee
2416 notify the CMO anytime the property described in the capacity
2418 reservation certificate undergoes a lot split, sale, or any other
2420 modification to the ownership, legal description, or lot
2422 configuration.

2418 Once the CMO receives gives written authorization notice
2420 offer for the collateral assignment of a capacity reservation certificate,
2422 no refunds of capacity reservation fees with respect to such
2424 capacity reservation certificate shall be paid to the holder thereof
2426 without the prior written consent of the collateral assignee. The
2428 CMO shall not be required to furnish any written notices to the
2430 collateral assignee except with respect to an application for refund
2432 of capacity reservation fees by the capacity reservation certificate
holder of the capacity reservation certificate. Specifically, but not
by way of limitation, the CMO shall not be required to notify the
collateral assignee of the expiration of a capacity reservation
certificate or nonpayment of any installment of a capacity
reservation fee, notwithstanding that the effect of failure to pay
such installment would be termination of the capacity reservation
certificate and return of the capacity to the available capacity bank.

Sec. 30-599. Capacity reservation fees for school concurrency certificates.

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2436 (1) Upon site plan approval and ~~the~~ payment of up to
2438 one-third (~~-1/3-~~) (as determined by the school board) of the
2440 capacity reservation fees or all proportionate share mitigation
payments, the county shall issue a certificate of school concurrency
reserving school capacity for a residential development for three
(3) years.

2442 (2) Each year on the anniversary date of the certificate
of school concurrency, the applicant shall pay an additional portion
2444 (up to one-third (~~-1/3-~~), as determined by the school board) of the
capacity reservation fees until such fees are paid in full. The
2446 applicant may prepay any capacity reservation fees required ~~to be~~
~~paid~~ under this section.

2448 (3) An applicant who has paid all capacity reservation
fees and can demonstrate that the project is proceeding in good
2450 faith, may request approval from the county and the school board
for an extension of the certificate of school concurrency for up to
2452 three (3) additional years. Any extension beyond the initial three-
year extension requires de novo review by the county and school
board of available school capacity.

2454 (4) Any capacity reservation fees paid shall be credited
against payment of school impact fees.

2456 (5) If the county becomes aware of the failure of an
applicant to meet any conditions of a certificate of school
2458 concurrency ~~of the development~~, the county shall report such
failure to the school board within forty-five (45) days of the date
2460 the county becomes aware of the failure.

2462 (6) All capacity reservation fee refunds shall be made
by the school board, unless the county is holding capacity
2464 reservation fees or school impact fees on behalf of the school
board, and the superintendent or his or her designee directs the
2466 county to refund capacity reservation fees from such funds. The
school board, at its discretion, may charge a nonrefundable
administrative fee for the processing of any refunds.

2468 **Secs. 30-600—30-610. Reserved.**

DIVISION 7. - CONCURRENCY ADMINISTRATION

2470 **Sec. 30-611. Traffic counts.**

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On county-maintained roads, the county shall continue its traffic counting and monitoring program to ensure the traffic conditions are accurately reflected in the CMS, as follows:

(1) The county shall, at a minimum, conduct annual three-day traffic counts on all county-maintained functionally classified roads.

(2) The county shall establish a similar traffic counting monitoring program to supplement FDOT's traffic counts to provide PM peak counts. For concurrency purposes, available capacity is measured by PM peak hour/peak directional counts.

(3) All annual traffic counts shall be ~~published by March first of each year and shall be made available to the public on the county website~~ by June 1st of each year.

Sec. 30-612 Capacity banks.

~~With respect to public school facilities,~~ The school board shall maintain a capacity bank for public school facilities. Any encumbrance or reservation of public school capacity shall be made by the county based upon a recommendation received from the school board ~~which recommendation will be based upon the school board capacity bank maintained by the school board.~~

~~With respect to each of the following public services or facilities: roads, mass transit, wastewater, potable water, solid waste, stormwater and parks, there are hereby established capacity banks, including, but not limited to, the available capacity bank, the encumbered capacity bank, and the reserved capacity bank. Only the CMO or his or her designee shall be authorized to transfer capacity among banks. A capacity bank is maintained for classified roads and capacity is monitored for all other public services or facilities.~~ Capacity refers to the ability or availability of a public facility or service to accommodate users, expressed in an appropriate unit of measure as set forth in Section 30-520, such as gallons per day, average daily trip ends, or, for public schools, available school capacity. Available capacity represents a specific amount of capacity that may be encumbered or reserved by future users of a public service or facility. Capacity is withdrawn from the available capacity bank and deposited into an encumbered capacity bank when a capacity encumbrance letter is issued, and then into a reserved capacity bank when ~~(i) a capacity reservation certificate or its reasonable equivalent is issued; (ii) a vested rights determination has become final or (iii) a building permit is issued.~~

Sec. 30-613. Annual capacity availability reporting and monitoring.

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2514 ~~By October 1 of each year, the planning division shall~~
complete an annual A capacity availability report shall be prepared
2516 annually. This report shall include development permitting activity
for the previous year and existing available capacity for the
2518 following public facilities: roads; mass transit; wastewater; potable
water; solid waste; stormwater; parks and public schools. The
2520 report shall specify the capacity used for the previous year. For
public schools, the capacity availability report shall use
2522 information reported annually to the CMO by the school board
pursuant to the interlocal agreement. The annual capacity
2524 availability report shall contain at a minimum, information
reflecting available, encumbered, and reserved capacity for the
prior year.

2526 ~~(1) A summary of development activity (to include~~
preliminary and final local development orders, vested
2528 development and exempted development).

2530 ~~(2) The total amount of existing capacity of the above~~
specified public services and facilities (i.e., roads, mass transit,
wastewater, potable water, solid waste, stormwater, parks, and
2532 public schools), and the amount of such existing capacity which
constitutes:

2534 ~~(a) Available capacity;~~

~~(b) Encumbered capacity;~~

2536 ~~(c) Reserved capacity.~~

Sec. 30-614. Review process.

2538 The office of the CMO shall serve as the clearinghouse for
all aspects of the concurrency management system. Applications
2540 for capacity information letters (except for public schools),
capacity encumbrance letters, and capacity reservation certificates
2542 shall be submitted to the office of the CMO. The CMO shall issue
the requested letter or certificate or shall deny the request, as
2544 appropriate.

2546 The office of the CMO shall maintain the official records
for the county regarding capacity information letters (except for
public schools), capacity encumbrance letters, and capacity
2548 reservation certificates.

The office of the CMO shall, on an annual basis, for all public facilities, coordinate with the appropriate divisions or departments (or and with the school board for public schools) concerning the capacity analysis for each concurrency determinations. The division or department (or school board) shall forward their comments regarding capacity availability to the office of the CMO.

Sec. 30-615. Transportation concurrency exception area monitoring.

(1) Beginning in 2015, Orange County shall monitor and evaluate the impacts of approved development in the AMA and of projects that promote public transportation on adjacent county-maintained roads and the state highway system. That information shall be reported in based on the performance measures set forth in Comprehensive Plan Policy T2.8.5. county's annual capacity availability report for the concurrency management system and shall be available upon request.

(2) Orange County shall monitor the success of AMA strategies on a districtwide basis using the following performance measures. Evaluation of the AMA using these performance measures shall begin in 2015.

Mobility Strategy	Measure	Target
Support alternative modes of transportation	Transit shelters in the AMA	Increase number of transit shelters
	Sidewalk coverage near transit stops in the AMA	Increase percentage of roadways with sidewalks (on at least one (1) side) within ¼ mile of transit stops
	Pedestrian, bicycle and transit Quality/LOS	Achieve grade C or better
	VMT in the AMA	Maintain or reduce amount per capita
	Accidents involving pedestrians and bicyclists in the AMA	Reduce annual number of accidents involving pedestrians and bicyclists in the AMA
Transportation network connectivity	Pedestrian connectivity index	Increase pedestrian connectivity index score by measuring link to node ratio

Secs. 30-616—30-619. Reserved.

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**DIVISION 8. - CONCURRENCY
APPEAL/MITIGATION PROCESS**

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Sec. 30-620. Scope and purpose.

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The purpose of this division is to provide a process for an applicant to:

(1) Appeal of a denial of a capacity encumbrance letter.

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(2) ~~An applicant to~~ Obtain a capacity encumbrance letter by meeting the requisite level of service standards by proposing ~~a mitigation plan~~ which must be approved by the county.

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(3) ~~An applicant to~~ Obtain a capacity encumbrance letter for transportation by proposing a proportionate share contribution, which must be approved by the county.

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(4) ~~An applicant may~~ Obtain a capacity encumbrance letter for public school facilities by proposing a proportionate share mitigation, which must be approved by the school board and county.

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Sec. 30-621. When concurrency appeal/mitigation/proportionate share contribution ~~procedures~~ (transportation)/proportionate share mitigation (schools) procedures apply.

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The concurrency appeal/mitigation procedures described in this division shall apply in the following circumstances:

(1) An application has been denied; or

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(2) The applicant has proposed ~~a mitigation plan~~ for ~~his~~ a project in order to satisfy the adopted level of service standards; or

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(3) Transportation. An application has been denied for transportation ~~facility~~ facilities deficiencies only and the applicant has ~~offered~~ proposed to enter into a binding agreement to pay for or construct its proportionate share of required improvements ("proportionate share agreement"). Provided the proposed development is consistent with the Comprehensive Plan for all impacts other than transportation ~~CP~~, the applicant may satisfy the county's transportation concurrency requirements by offering to enter ~~entering~~ into a proportionate share agreement. that may include, but shall not be limited to, ~~the~~ construction of intersection

improvements, turn lanes, or signals, under the following circumstances:

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(a) The proportionate share contribution may be the proportionate share of the cost of a transportation improvement funded for construction in the county's five-year CIP, or in the ten-year capital improvements schedule (CIS) that, upon completion, will provide transportation facilities necessary to serve the development; or

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(b) If a transportation improvement that, upon completion, would provide transportation facilities necessary to serve the proposed development is included in the county's LTTCMS, but is not included in the CIP or CIS the applicant may pay for or construct its proportionate share of an improvement, provided it is sufficient to accomplish one (1) or more mobility improvements.

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(c) If there is no transportation improvement available under subsection (a) or (b) hereof, the applicant may propose construction of, or a proportionate share contribution to, a transportation improvement that, in the opinion of the governmental entity or entities maintaining the transportation facilities, is sufficient to accomplish one (1) or more mobility improvements. If the county accepts construction of, or a proportionate share contribution to, such transportation improvement, the county will add the transportation improvement to the CIP at the next available opportunity.

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(4) *Schools.* An application for a school capacity encumbrance letter has been denied and the applicant proposes proportionate share mitigation to address the project's impacts. The proposed project must be otherwise consistent with the Comprehensive Plan and the proposed proportionate share mitigation shall fall within one (1) of the following categories:

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(a) The project will be served by a school improvement that, upon completion, will satisfy the requirements of the county concurrency management system, is included in the district facilities work program (which is included in the five-year CIP in the county CIE); or

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(b) The applicant proposes a proportionate share mitigation or contribution to an improvement, approved by the county and school board, that will satisfy the requirements of the county concurrency management system, but is not currently contained in the district facilities work program (that is included in

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2650 the five-year CIP). The school board and county shall commit to
2652 add the improvement to the district facilities work program and
five-year CIP no later than the next regularly scheduled update of
the school district facilities plan and CIE.

2654 **Sec. 30-622. Submittal of appeal/mitigation plan/
2656 proportionate share contribution agreement
(transportation)/proportionate share mitigation
agreement (schools).**

2658 (1) *Application.* An application ~~for an appeal of~~
2660 ~~appealing a denial of a request for a capacity encumbrance letter, a~~
~~mitigation plan, a proportionate share contribution agreement, or a~~
proportionate share mitigation agreement (schools) shall include:

2662 (a) Name, address, and phone number of
owner(s), developer and agent:

2664 (b) Property location, including parcel
identification numbers:

2666 (c) Legal description and survey of property:

2668 (d) Project description, including type, intensity
and amount of development;

(e) Phasing schedule, if applicable;

2670 (f) Description of request (appeal, mitigation
2672 plan, proportionate share (transportation), or proportionate share
mitigation (schools));

2674 (g) Copy of ~~application for capacity~~
~~encumbrance letter;~~

2676 (h) ~~Copy of approved traffic study~~
(transportation) or development impact analysis (schools); and

~~(i) Application fee; and~~

2678 (j) Copy of capacity encumbrance denial letter.

2680 (2) ~~If the applicant is appealing a denial, an appeal~~
~~application and fee which conforms to the submittal requirements~~
~~of this division shall be submitted to the CMO. No appeal~~
2682 application shall be deemed sufficient until accepted ~~unless~~ it is
~~complete. A~~ and accompanied by a fee for filing an appeal
2684 application ~~which~~ shall be established by resolution of the board of

county commissioners.

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(3) If the applicant proposes using the proportionate share contribution option to satisfy the transportation concurrency requirements for development of a specific parcel(s):

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(a) The applicant may attend a pre-application conference prior to attending with the RAC to discuss eligibility, application submittal requirements, potential mitigation options, and related issues. ~~If the impacted road is a state road, the FDOT will be invited to participate in the pre-application conference.~~

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(b) The applicant shall submit the proportionate share application to the county.

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(c) Within ten (10) business days, the applicant will be notified by the Transportation Planning Division if the application is insufficient or incomplete. If such deficiencies are not remedied by the applicant within thirty (30) days of receipt of the written notification, ~~then~~ the application will be deemed abandoned. The Manager of the Transportation Planning Division ~~CMO~~ may grant an extension of time not to exceed sixty (60) days to cure such deficiencies, provided that the applicant has shown good cause for the extension and has taken reasonable steps to affect a cure.

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(d) Calculation of the project's proportionate share of the cost of ~~the~~ improvements using the following formula:

Proportionate Share =	$\frac{\text{Project Trips} \times \text{Cost}}{\text{Increase in Capacity}}$
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(e) If the county has accepted right-of-way dedication for the proportionate share payment, credit for the dedication of the non-site related right-of-way shall be valued through an appraisal, at no expense to the county, from an MAI appraiser approved by the county. The value of the right-of-way to be conveyed by the owner shall be the total number of acres, and/or a fraction thereof, of the conveyed land multiplied by the appraised fair market value of the property. 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

2720 county. If the estimated value of the right-of-way dedication
2722 proposed by the applicant is less than the county estimated total
2724 proportionate share obligation for that development, then the
2726 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 share, public or
private partners should contact the FDOT for essential information
about compliance with federal law and regulations.

2728 (f) The applicant shall receive a credit on a
2730 dollar-for-dollar basis for impact fees and other transportation
2732 concurrency mitigation requirements. The credit ~~shall~~ may be
reduced by up to twenty ~~(20)~~ percent (20%) by the percentage
share that the project's traffic represents of the added capacity of
the selected improvement or by the amount specified by local
ordinance, whichever yields the greater credit.

2734 (g) *Proportionate share agreement.* A
2736 developer's agreement addressing the terms of the proportionate
2738 share contribution (the proportionate share agreement) must be
reviewed and recommended by the RAC to the board of county
commissioners (except for school mitigation agreements which
shall be recommended by the CMO to the board of county
2740 commissioners) and approved by the board of county
commissioners.

2742 (h) *Issuance of capacity encumbrance letter.*
2744 Upon approval of the proportionate share agreement by the board
2746 of county commissioners, and payment of proportionate share
contribution, a capacity encumbrance letter will be issued in
accordance with ~~for the amount of capacity to be created by the
proportionate share agreement contribution.~~

2748 (4) *Schools.* In the event there is insufficient available
2750 school capacity within a school concurrency service area to meet
the demand created by the proposed residential development, and
the applicant and the school board have agreed upon mitigation
2752 (which may include proportionate share mitigation) pursuant to
subsection 30-563(2)(c)(4) to satisfy the school concurrency
2754 requirements for the proposed residential development, the
following shall apply:

2756 (a) *Agreement.* The applicant, the school board
2758 and the county must memorialize the agreed-upon mitigation by
entering into a legally binding agreement to provide mitigation
proportionate to the demand for public school facilities created by
2760 the actual development of the property.

2762 (b) *Mitigation options.* Mitigation options that
provide permanent capacity are subject to school board approval
and may include, but are not limited to:

2764 1. Contribution of land in conjunction
2766 with the provision of an additional school site meeting the county's
school siting criteria, or adjacent land for expansion of an existing
2768 facility (the value of such land shall be calculated using the
valuation standard of section 19.6(c) of the interlocal agreement);

2770 2. Provision of additional permanent
student stations through donations of buildings for use as primary
or alternative learning facility, provided that such buildings meet
2772 the state requirements for educational facilities;

2774 3. Provision of additional permanent
student stations through the renovation of existing buildings for
use as learning facilities;

2776 4. Construction of permanent student
stations or core facilities;

2778 5. Construction of a school in advance
of the time set forth in the district facilities work program;

2780 6. Creation of mitigation banking based
2782 on the construction of a public school facility in exchange for the
right to sell capacity credits;

2784 7. Construction of a charter school
designed in accordance with state requirements for educational
2786 facilities and providing permanent student stations. Use of a
charter school for mitigation must include provisions for its
2788 continued existence, including, but not limited to, the transfer of
ownership of the charter school property and/or operation of the
2790 school to the school board in the event of the closure of the charter
school;

2792 8. Contribution of funds or other
financial commitments or initiatives acceptable to the school board
2794 to ensure that the financial feasibility of the district facilities work
program can be maintained by the implementation of the
mitigation options; or

2796 9. Payment of proportionate share
| mitigation for the residential development. Such payment shall be
2798 based on the ability to meet the demand for school facilities
created by the proposed residential development. The amount will

2800 be calculated ~~utilizing~~ using the cost per student station allocation
2802 for each school type plus the cost of land acquisition, core and
2804 ancillary facility requirements and other infrastructure
2806 expenditures, including off-site improvements for school sites, as
determined and published annually in the district facilities work
program. The methodology used to calculate proportionate share
mitigation shall be as follows:

2808
$$\text{Proportionate Share Mitigation} = (\text{Development Impact} - \text{Available School Capacity}) \times \text{Total Cost}$$

Where:

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$$\text{Available School Capacity} = (\text{School Capacity} \times \text{Adopted Level of Service}) - (\text{Enrollment} + \text{Reserved Capacity})$$

2812
$$\text{School Capacity} = \text{Adjusted FISH capacity for the applicable school concurrency service area as programmed in the first three (3) years of the district facilities work program}$$

2816
$$\text{Enrollment} = \text{Student enrollment as counted in the most recent official October count}$$

2818
$$\text{Total Cost} = \text{the cost per student station plus a share of the land-acquisition costs, additional core and ancillary facility costs and other anticipated infrastructure expenditures or the estimated cost of school infrastructure needed to provide sufficient permanent capacity to the impacted school concurrency service areas, and includes including any cost needed to pay the interest to advance a school scheduled in the district facilities work program to an earlier year.}$$

2826 ~~(c) *Impact fee credit.* Proportionate share mitigation shall be credited against the school impact fee to the extent that the mitigation payment funds a capacity adding public school improvement that is eligible to be funded with school impact fees. The terms of the impact fee credit shall be established in the proportionate share mitigation agreement. Proportionate share mitigation shall be credited against the school impact fee in accordance with Section 163.3180(6), F.S., and Section 163.31801, F.S., both as may be amended from time to time. The impact fee credit shall be calculated as follows:~~

2836
$$\text{Equivalent Residential Units (ERU) for which Proportionate Share Mitigation is provided} \times \text{Impact Fee per Dwelling Unit}$$

2838 *Where:*

2840
$$\frac{\text{Net Development Impact} - \text{Development impact}}{\text{Available Capacity}}$$

2842
$$\text{ERU} = \frac{\text{Net Development Impact}}{\text{Student Generation Rate}}$$

2844 (d) Capacity enhancement contribution credit.
2846 To the extent the residential development is subject to a capacity
2848 enhancement agreement, the capital contribution paid pursuant to
2850 such agreement shall be a credit applied to the proportionate share
2852 mitigation applied herein.

2854 (e) CMO. Following negotiation with the school board
2856 and the county attorney's office and approval by the school board,
2858 the applicant shall submit any proposed proportionate share
2860 mitigation agreement to the CMO for review and recommendation
2862 by the CMO to the board of county commissioners.

Sec. 30-623. Appeals.

2864 The applicant may appeal decisions of the CMO, RAC, and
2866 DRC.

2868 (1) An applicant may appeal decisions of the CMO by
2870 notifying the director of the Planning, Environmental and
2872 Development Services department (or his/her designee) in writing
2874 that such party is appealing the decision. The notification shall be
2876 delivered to the director no later than thirty (30) days after the
2878 decision on the application is rendered; otherwise, the applicant
shall be deemed to have waived all rights to challenge the decision.
(For purposes of this section, the term "renders" means the date the
applicant initials or otherwise indicates receipt of the decision on
the application. However, in the event the decision on the
application is not accepted or is returned, the term "renders" means
ten (10) calendar days after the date the decision was signed.)
Upon receipt by the director of a timely notice of appeal, the
director shall submit the appeal to the DRC, which shall consider
the appeal no later than ninety (90) days following receipt or at
such later date to which the applicant may consent.

2880 (2) The applicant may appeal decisions of the RAC by
2882 requesting a hearing in letter form to the chairman of the DRC.
2884 Such request shall include a summary of the decision being
2886 appealed and the basis for the appeal. For appeals regarding
2888 decisions on the availability of school capacity, the applicant shall
submit a copy of the request ~~shall be submitted~~ to the school board
who shall send a representative to the DRC meeting at which such

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appeal is being heard. The DRC shall consult with the school board in reviewing appeals regarding the availability of school capacity.

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(~~32~~) Any decision of the DRC pursuant to this article may be appealed to the board of county commissioners by submitting a letter to the chairman of the DRC within thirty (30) days of the decision. For appeals regarding decisions on the availability of school capacity, the applicant shall submit a copy of the appeal request shall be submitted to the school board who shall send a representative to the board of county commissioners meeting at which such appeal is being heard for its information.

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(a) The board of county commissioners may deny or approve (with or without conditions) the appeal request~~application~~ or may return the appeal request~~application~~ to the appropriate committee for further consideration with or without comments or directions.

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(b) The board of county commissioners shall review the ~~application request~~ on the same basis and in accordance with the procedures of this division, and an approval issued by the board of county commissioners shall have the same effect as an approval by the respective committee and shall accordingly enable the CMO to issue a capacity encumbrance letter which may contain such conditions as the board of county commissioners may require.

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(c) The board of county commissioners shall consult with and consider the recommendations of the school board regarding appeals on school capacity.

Sec. 30-624. Miscellaneous matters.

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(1) The requirement that LOS be achieved and maintained for a project shall not apply if proportionate share mitigation is used.

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(2) The filing of an application under this division shall be without prejudice to the right of the applicant to assert a claim of vested rights under the county vested rights ordinance; provided, however, that upon the execution of a developer's agreement, the applicant shall be deemed to have waived any rights for ~~his~~ the project under the county vested rights ordinance.

Secs. 30-625—30-635. Reserved.

2916 *Section 4. Effective date.* This ordinance shall become effective
pursuant to general law.

2918

ADOPTED THIS ____ DAY OF _____, 20__.

2920

ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

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By: _____
Jerry L. Demings
County Mayor

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2928 ATTEST: Phil Diamond, CPA, County Comptroller
As Clerk of the Board of County Commissioners

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By: _____
Deputy Clerk

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