

Statute 163.3180 - Concurrency

As written 2024

163.3180 Concurrency.—

(1) Sanitary sewer, solid waste, drainage, and potable water are the only public facilities and services subject to the concurrency requirement on a statewide basis. Additional public facilities and services may not be made subject to concurrency on a statewide basis without approval by the Legislature; however, any local government may extend the concurrency requirement so that it applies to additional public facilities within its jurisdiction.

(a) If concurrency is applied to other public facilities, the local government comprehensive plan must provide the principles, guidelines, standards, and strategies, including adopted levels of service, to guide its application. In order for a local government to rescind any optional concurrency provisions, a comprehensive plan amendment is required. An amendment rescinding optional concurrency issues shall be processed under the expedited state review process in s. [163.3184\(3\)](#), but the amendment is not subject to state review and is not required to be transmitted to the reviewing agencies for comments, except that the local government shall transmit the amendment to any local government or government agency that has filed a request with the governing body and, for municipal amendments, the amendment shall be transmitted to the county in which the municipality is located. For informational purposes only, a copy of the adopted amendment shall be provided to the state land planning agency. A copy of the adopted amendment shall also be provided to the Department of **Transportation** if the amendment rescinds **transportation** concurrency and to the Department of Education if the amendment rescinds school concurrency.

(b) The local government comprehensive plan must demonstrate, for required or optional concurrency requirements, that the levels of service adopted can be reasonably met. Infrastructure needed to ensure that adopted level-of-service standards are achieved and maintained for the 5-year period of the capital improvement schedule must be identified pursuant to the requirements of s. [163.3177\(3\)](#). The comprehensive plan must include principles, guidelines, standards, and strategies for the establishment of a concurrency management system.

(2) Consistent with public health and safety, sanitary sewer, solid waste, drainage, adequate water supplies, and potable water facilities shall be in place and available to serve new development no later than the issuance by the local government of a certificate of occupancy or its functional equivalent. Prior to approval of a building permit or its functional equivalent, the local government shall consult with the applicable water supplier to determine whether adequate water supplies to serve the new

development will be available no later than the anticipated date of issuance by the local government of a certificate of occupancy or its functional equivalent. A local government may meet the concurrency requirement for sanitary sewer through the use of onsite sewage treatment and disposal systems approved by the Department of Environmental Protection to serve new development.

(3) Governmental entities that are not responsible for providing, financing, operating, or regulating public facilities needed to serve development may not establish binding level-of-service standards on governmental entities that do bear those responsibilities.

(4) The concurrency requirement as implemented in local comprehensive plans applies to state and other public facilities and development to the same extent that it applies to all other facilities and development, as provided by law.

(5)(a) If concurrency is applied to **transportation** facilities, the local government comprehensive plan must provide the principles, guidelines, standards, and strategies, including adopted levels of service to guide its application.

(b) Local governments shall use professionally accepted studies to evaluate the appropriate levels of service. Local governments should consider the number of facilities that will be necessary to meet level-of-service demands when determining the appropriate levels of service. The schedule of facilities that are necessary to meet the adopted level of service shall be reflected in the capital improvement element.

(c) Local governments shall use professionally accepted techniques for measuring levels of service when evaluating potential impacts of a proposed development.

(d) The premise of concurrency is that the public facilities will be provided in order to achieve and maintain the adopted level of service standard. A comprehensive plan that imposes **transportation** concurrency shall contain appropriate amendments to the capital improvements element of the comprehensive plan, consistent with the requirements of s. [163.3177\(3\)](#). The capital improvements element shall identify facilities necessary to meet adopted levels of service during a 5-year period.

(e) If a local government applies **transportation** concurrency in its jurisdiction, it is encouraged to develop policy guidelines and techniques to address potential negative impacts on future development:

1. In urban infill and redevelopment, and urban service areas.
2. With special part-time demands on the **transportation** system.
3. With de minimis impacts.
4. On community desired types of development, such as redevelopment, or job creation projects.

(f) Local governments are encouraged to develop tools and techniques to complement the application of **transportation** concurrency such as:

1. Adoption of long-term strategies to facilitate development patterns that support multimodal solutions, including urban design, and appropriate land use mixes, including intensity and density.
2. Adoption of an areawide level of service not dependent on any single road segment function.

3. Exempting or discounting impacts of locally desired development, such as development in urban areas, redevelopment, job creation, and mixed use on the **transportation** system.

4. Assigning secondary priority to vehicle mobility and primary priority to ensuring a safe, comfortable, and attractive pedestrian environment, with convenient interconnection to transit.

5. Establishing multimodal level of service standards that rely primarily on nonvehicular modes of **transportation** where existing or planned community design will provide adequate level of mobility.

6. Reducing impact fees or local access fees to promote development within urban areas, multimodal **transportation** districts, and a balance of mixed-use development in certain areas or districts, or for affordable or workforce housing.

(g) Local governments are encouraged to coordinate with adjacent local governments for the purpose of using common methodologies for measuring impacts on **transportation** facilities.

(h)1. Local governments that continue to implement a **transportation** concurrency system, whether in the form adopted into the comprehensive plan before the effective date of the Community Planning Act, chapter 2011-139, Laws of Florida, or as subsequently modified, must:

a. Consult with the Department of **Transportation** when proposed plan amendments affect facilities on the strategic intermodal system.

b. Exempt public transit facilities from concurrency. For the purposes of this sub-subparagraph, public transit facilities include transit stations and terminals; transit station parking; park-and-ride lots; intermodal public transit connection or transfer facilities; fixed bus, guideway, and rail stations; and airport passenger terminals and concourses, air cargo facilities, and hangars for the assembly, manufacture, maintenance, or storage of aircraft. As used in this sub-subparagraph, the terms "terminals" and "transit facilities" do not include seaports or commercial or residential development constructed in conjunction with a public transit facility.

c. Allow an applicant for a development-of-regional-impact development order, development agreement, rezoning, or other land use development permit to satisfy the **transportation** concurrency requirements of the local comprehensive plan, the local government's concurrency management system, and s. [380.06](#), when applicable, if:

(I) The applicant in good faith offers to enter into a binding agreement to pay for or construct its proportionate share of required improvements in a manner consistent with this subsection.

(II) The proportionate-share contribution or construction is sufficient to accomplish one or more mobility improvements that will benefit a regionally significant **transportation** facility. A local government may accept contributions from multiple applicants for a planned improvement if it maintains contributions in a separate account designated for that purpose.

d. Provide the basis upon which the landowners will be assessed a proportionate share of the cost addressing the **transportation** impacts resulting from a proposed development.

2. An applicant shall not be held responsible for the additional cost of reducing or eliminating deficiencies. When an applicant contributes or constructs its proportionate share pursuant to this

paragraph, a local government may not require payment or construction of **transportation** facilities whose costs would be greater than a development's proportionate share of the improvements necessary to mitigate the development's impacts.

a. The proportionate-share contribution shall be calculated based upon the number of trips from the proposed development expected to reach roadways during the peak hour from the stage or phase being approved, divided by the change in the peak hour maximum service volume of roadways resulting from construction of an improvement necessary to maintain or achieve the adopted level of service, multiplied by the construction cost, at the time of development payment, of the improvement necessary to maintain or achieve the adopted level of service.

b. In using the proportionate-share formula provided in this subparagraph, the applicant, in its traffic analysis, shall identify those roads or facilities that have a **transportation** deficiency in accordance with the **transportation** deficiency as defined in subparagraph 4. The proportionate-share formula provided in this subparagraph shall be applied only to those facilities that are determined to be significantly impacted by the project traffic under review. If any road is determined to be **transportation** deficient without the project traffic under review, the costs of correcting that deficiency shall be removed from the project's proportionate-share calculation and the necessary **transportation** improvements to correct that deficiency shall be considered to be in place for purposes of the proportionate-share calculation. The improvement necessary to correct the **transportation** deficiency is the funding responsibility of the entity that has maintenance responsibility for the facility. The development's proportionate share shall be calculated only for the needed **transportation** improvements that are greater than the identified deficiency.

c. When the provisions of subparagraph 1. and this subparagraph have been satisfied for a particular stage or phase of development, all **transportation** impacts from that stage or phase for which mitigation was required and provided shall be deemed fully mitigated in any **transportation** analysis for a subsequent stage or phase of development. Trips from a previous stage or phase that did not result in impacts for which mitigation was required or provided may be cumulatively analyzed with trips from a subsequent stage or phase to determine whether an impact requires mitigation for the subsequent stage or phase.

d. In projecting the number of trips to be generated by the development under review, any trips assigned to a toll-financed facility shall be eliminated from the analysis.

e. The applicant shall receive a credit on a dollar-for-dollar basis for impact fees, mobility fees, and other **transportation** concurrency mitigation requirements paid or payable in the future for the project. The credit shall be reduced up to 20 percent 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.

3. This subsection does not require a local government to approve a development that, for reasons other than **transportation** impacts, is not qualified for approval pursuant to the applicable local comprehensive plan and land development regulations.

4. As used in this subsection, the term "**transportation** deficiency" means a facility or facilities on which the adopted level-of-service standard is exceeded by the existing, committed, and vested trips, plus additional projected background trips from any source other than the development project under review, and trips that are forecast by established traffic standards, including traffic modeling, consistent with the University of Florida's Bureau of Economic and Business Research medium population projections. Additional projected background trips are to be coincident with the particular stage or phase of development under review.

(i) If a local government elects to repeal **transportation** concurrency, it is encouraged to adopt an alternative mobility funding system that uses one or more of the tools and techniques identified in paragraph (f). Any alternative mobility funding system adopted may not be used to deny, time, or phase an application for site plan approval, plat approval, final subdivision approval, building permits, or the functional equivalent of such approvals provided that the developer agrees to pay for the development's identified **transportation** impacts via the funding mechanism implemented by the local government. The revenue from the funding mechanism used in the alternative system must be used to implement the needs of the local government's plan which serves as the basis for the fee imposed. A mobility fee-based funding system must comply with s. [163.31801](#) governing impact fees. An alternative system that is not mobility fee-based shall not be applied in a manner that imposes upon new development any responsibility for funding an existing **transportation** deficiency as defined in paragraph (h).

OBJ FLU6.9 Lake Pickett Future Land Use Map (FLUM) Amendment and Conceptual Regulating Plan (CRP) and Lake Pickett Planned Development Regulating Plan (PD-RP). Development approval of a community within the Lake Pickett Study Area shall require an LP Future Land Use Map designation, public outreach, an approved Transportation Term Sheet or other transportation mitigation framework presented to and reviewed by the Board of County Commissioners and corresponding Agreement(s) for provision of infrastructure, and an approved Lake Pickett PD-RP, which determines the adopted boundaries and location of the Transect Zones. The proposed Transect Zone locations shall be illustrated on a Conceptual Regulating Plan (CRP) during the FLUM amendment process and finalized on an approved Lake Pickett PD-RP. (Added 07/16, Ord. 2016-17)

POLICIES FLU6.9.1 Lake Pickett Future Land Use Map Amendment. Requirements for all Lake Pickett Future Land Use Map Amendments include, but are not limited to, submittal of a draft

Conceptual Regulating Plan, a proposed development program, a justification statement, an OCPS Consistency Determination Application, a Transportation Study, and the proposed community meeting schedule and shall be met at the time of submittal. Depending on the circumstances of the LP application, additional information may be required for transportation, utilities, drainage or other pertinent data as determined by Planning Division staff. Requirements shall include the following:

- Conceptual Regulating Plan (CRP): A CRP, a general and illustrative representation of the proposed development and location of transects, is precursory to a Lake Pickett PD-RP. A CRP shall be provided during the transmittal process and shall be refined throughout the review process. The following items shall either be depicted on a CRP or included as an attachment:
 - A. General location of Transect Zones
 - B. General location and types of the proposed agricultural uses (if applicable), natural areas, and transitional treatments
 - C. General location of neighborhoods based on ¼-mile radius pedestrian sheds
 - D. Location of existing and planned major roadways, trails or other transportation modes
 - E. Location of potential and required connections, including external connections to adjacent roadways and those between the two Lake Pickett communities, and required internal connections between neighborhoods
 - F. General location of public school sites and a copy of the application for a Capacity Enhancement Agreement with Orange County Public Schools
 - G. Net developable land area for the project and for each of the Transect Zones
 - H. Overall proposed community development program
- OCPS Capacity Enhancement or Mitigation Agreement: Prior to adoption of the FLUM amendment, a Capacity Enhancement Agreement (CEA) shall be approved and fully executed by Orange County Public Schools that mitigates the impact of the LP designation on the public school system. The CEA shall address the procedure for conveying the school sites to OCPS and address APF requirements. The value of the school site shall not exceed \$58,000 per acre, and the school site must meet all Orange County Public Schools requirements to receive this value. Future Land Use Element FLU-147
- Transportation Analysis: The traffic study shall be coordinated with the Orange County Transportation Planning Division and submitted in accordance with the deadlines for the associated LP FLUM amendment. The traffic study will be part of the data and analysis for the requisite adoption of a Term Sheet or transportation mitigation framework presented to and reviewed by the Board of County Commissioners and corresponding Transportation Network Agreement(s) required with the Board of County Commissioners Comprehensive Plan adoption public hearing.
- Justification and Consistency: The justification statement shall identify relevant Comprehensive Plan policies and explain how the proposed request is consistent with the identified policies. Any privately-initiated text amendment(s) related to the application shall also be included and

explained as part of the justification statement. Proposals for privately-initiated text amendments also shall include an evaluation of consistency with the Comprehensive Plan. • Infrastructure and Public Services: Development within the Lake Pickett Study Area shall be subject to the requirements of the Orange County Concurrency Management Ordinance, as amended, unless a separate agreement has been entered into with the County to establish an alternative method for addressing development impacts. Provision of land, connection, and access will be made to accommodate the siting and operation of utility and emergency services facilities, conveyances, and equipment accordingly. • Community Meetings/Public Participation: A minimum of two community meetings/public workshops shall be held. All workshops are subject to the County's notification requirements. The County maintains the discretion to require additional community meetings/workshops as part of the application review process. (Added 07/16, Ord. 2016-17)

FLU6.9.3 Funding of Transportation Improvements. A Transportation Term Sheet or other transportation mitigation framework presented to and reviewed by the Board of County Commissioners, as well as their corresponding Transportation Network Agreements shall require a financially feasible, long-range transportation infrastructure funding framework and capital improvements program as defined by the County and applicable policies in the Comprehensive Plan, including, but not limited to, Objective CIE1.6 and implementing Policies CIE1.6.5 and CIE1.6.6. The planned transportation improvements shall ensure the overall safe and efficient movement of vehicles, pedestrians and cyclists through an interconnected multimodal transportation network. Potential funding sources for projects may include, but are not limited to, the following: • Developer Contributions and/or other Public-Private Partnerships • Road Impact Fees • Available State or Federal Highway or Transit Funds • Municipal Service Taxing Unit/Municipal Service Benefit Unit • Tax Increment Financing District • Community Development District • County INVEST funding • Others as approved by the Board of County Commissioners. Orange County shall evaluate alternative funding mechanisms to ensure the adequate financing or funding of needed public facilities, including transportation infrastructure, necessary to accommodate the proposed development within the LP Future Land Use designation for the Lake Pickett Study Area defined in Objective FLU6.8. The County shall require developer participation in such funding programs, except that OCPS shall not be required to participate in any community development district or other potential funding sources. A Lake Pickett PD-RP shall be implemented through a Lake Pickett Transportation Network Agreement(s), which shall: A. Identify the list of transportation infrastructure improvements necessary to support the LP Future Land Use designation; B. Denote specific private or public

entities responsible for implementation and completion of each transportation infrastructure improvement; C. Relate the completion of critical transportation improvements to development entitlements (i.e. trip allocations) and development phasing to identify when improvements are required; and D. Demonstrate satisfaction of the requirements of the Orange County Concurrency Management Ordinance, as amended. Future Land Use Map (FLUM) amendments for the Lake Pickett designation shall not be approved without a Lake Pickett Transportation Term Sheet or other transportation mitigation framework also presented to and reviewed by the Board of County Commissioners. Prior to County approval of any Comprehensive Plan amendment or any subsequent FLUM amendments, a corresponding Transportation Network Agreement that substantially conforms with a Lake Pickett Transportation Term Sheet or other transportation mitigation framework presented to and reviewed by the Board of County Commissioners must be signed by the owners of a majority of the acreage it addresses. (Added 07/16, Ord. 2016-17)