

**ORDINANCE NO. 3097-17**

**AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE II, "CONCURRENCY MANAGEMENT REGULATIONS" SO AS TO ADOPT CHANGES TO THE CONCURRENCY MANAGEMENT REGULATIONS OF THE CITY NECESSARY TO IMPLEMENT THE CITY OF WINTER PARK, COMPREHENSIVE PLAN, GOALS, OBJECTIVES AND POLICIES DOCUMENT, DATED APRIL 24, 2017; PROVIDING FOR CONFLICTS; SEVERABILITY AND AN EFFECTIVE DATE.**

**WHEREAS**, the Florida Legislature has adopted Chapter 163, Florida Statutes which requires all local communities to adopt amendments to their Land Development Codes to implement the growth and development policies of Comprehensive Plans adopted pursuant to Chapter 163, Florida Statutes and Florida Administrative Rules in order to provide appropriate policy guidance for growth and development: and

**WHEREAS**, the Winter Park City Commission adopted a new Comprehensive Plan on April 24, 2017 via Ordinance 3076-17; and

**WHEREAS**, the Winter Park Planning and Zoning Board, acting as the designated Local Planning Agency, has reviewed and recommended adoption of proposed amendments to the Zoning Regulations portion of the Land Development Code having held an advertised public hearing on November 7, 2017, and rendered its recommendations to the City Commission; and

**WHEREAS**, the Winter Park City Commission has reviewed the proposed amendments to the Concurrency Management Regulations portion of the Land Development Code and held advertised public hearings on November 27, 2017 and on December 11, 2017 and advertised notice of such public hearings via quarter page advertisements in the Orlando Sentinel pursuant the requirements of Chapter 166, Florida Statutes and placed the proposed amendments on the City's website on October 31, 2017; and.

**WHEREAS**, the portions of Chapter 58, Land Development Code, Article II, Concurrency Management Regulations, that are to be amended and modified as described in each section and amended to read as shown herein where words with single underlined type shall constitute additions to the original text and ~~strike through~~ shall constitute deletions to the original text.

**NOW THEREFORE, BE IT ENACTED BY THE CITY OF WINTER PARK:**

**SECTION 1.** That Chapter 58 "Land Development Code", Article II "Concurrency Management Regulations" of the Code of Ordinances is hereby amended and modified by enacting the changes, additions and deletions a to read as attached as Exhibit "A" to this Ordinance.

**SECTION 2. SEVERABILITY.** If any Section or portion of a Section of this Ordinance proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other Section or part of this Ordinance.

**SECTION 3. CODIFICATION.** It is the intention of the City Commission of the City of Winter Park, Florida, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinance of the City of Winter Park, Florida;

**SECTION 4. CONFLICTS.** All Ordinances or parts of Ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

**SECTION 5. EFFECTIVE DATE.** This Ordinance shall become effective immediately upon its passage and adoption.

**ADOPTED** at a regular meeting of the City Commission of the City of Winter Park, Florida, held in City Hall, Winter Park, on this 11<sup>th</sup> day of December, 2017.



Steve Leary, Mayor

ATTEST:



City Clerk Cynthia S. Bonham

# EXHIBIT A

## ARTICLE II. CONCURRENCY MANAGEMENT REGULATIONS

### Sec. 58-31. Introduction; summary.

This Article implements the concurrency management regulations mandated by Chapter 163, Florida Statutes ~~and Rule 9J-5 Florida Administrative Code~~, as well as serving as an implementation mechanism for the City's Comprehensive Plan.

### Sec. 58-32. Purpose.

- (a) The purpose of this Article is to enable growth and development to proceed in the City in compliance with the City's Comprehensive Plan. As such, this Article implements the concurrency provisions of the Comprehensive Plan that are mandated by Chapter 163, Florida Statutes ~~and Rule 9J-5 Florida Administrative Code~~ and to provide for the implementation of the City's Comprehensive Plan.
- (b) The City Commission has determined and recognized that new growth and development may necessitate expansions and improvements of infrastructure. In order to assure capacity in infrastructure systems for new growth, all new development will be reviewed to determine the effect of such development on the infrastructure systems within the City. No new development or redevelopment will be permitted which would have the effect of degrading the level of service of any infrastructure system below that level established in the Comprehensive Plan.
- (c) The City of Winter Park sponsors or experiences several special events each year such as the Winter Park Arts Festival. Such events generate temporary peak demands on the infrastructure. It would be an unnecessary and unreasonable expense to the public to develop public infrastructure to support completely such temporary periods of usage. It is not the purpose of this Article to require the complete infrastructure for these occasional special events.

### Sec. 58-33. Concurrency requirements.

- (a) A An administrative concurrency approval shall be required to be granted by the City prior to the issuance of any development order or approval except as exempted in the Article. The following are determined to be development orders requiring a concurrency approval:
  - (1) Building Permit
  - (2) Permitted Use Approval
  - (3) Conditional Use Approval
  - (4) Site Plan Approval
  - (5) Final Plat
  - (6) Planned Unit Development



- (7) Development Agreement, pursuant to 163.3220
- (8) Development of Regional Impact (D.R.I.)
- (9) Florida Quality Development (F.Q.D.)

- (b) A concurrency approval shall be required prior to commencement of construction of any new public facilities, or expansion thereof, whether or not a final development order or building permit is issued by the City.
- (c) A concurrency approval shall be required prior to the commencement of construction within the City of any new public facilities by any other government, school board or quasi-governmental agency.
- (d) A concurrency approval shall not be required to be granted by the City and the following development orders are exempted from the requirements of this Article:
  - (1) Development orders or building permits for single family homes or duplexes within existing platted subdivisions of record recorded prior to the effective date of the Article where all infrastructure required within the subdivision to support the property has been provided and accepted by the City.
  - (2) Development orders or building permits for other residential or non-residential development where the following standards are not exceeded:

Roads: ~~20 average daily trip ends~~  
Water: ~~700 gallons per day~~ Residential projects of 10 units or less or 10,000 square feet or less for non-residential projects.  
Sewer: ~~700 gallons per day~~ Residential projects of 10 units or less or 10,000 square feet or less for non-residential projects.
  - (3) ~~Development of Regional Impact (D.R.I.), Florida Quality Development (F.Q.D.) or development included in a Development Agreement adopted by the City Commission pursuant to Chapter 163, Florida Statutes. Development pursuant to a building permit issued prior to the effective date of this Article and consistent with the Comprehensive Plan, provided however, that no such building permit shall be extended except in conformance with this Article. If, however, the Code Enforcement Director determines such a building permit has lapsed or expired, pursuant to the Building Code, then no subsequent building permit shall be issued except in conformance with this Article. In addition, if the Planning Official determines that the developer is proposing a change in the plan of development resulting in impacts on public services greater than those impacts caused by the previously approved development, then no change shall be approved except in accordance with this Article.~~

#### **Sec. 58-34. Change of use.**

- (a) *Increased Impact on Public Facilities or Services.* If a proposed change of use shall have a greater impact on public facilities and/or services than the previous use, a capacity approval shall be required for the net increase only.

(b) *Decreased Impact on Public Facilities and Services.* If the proposed change of use shall have an impact on public facilities and/or services which is equal to 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.

(c) *Definition of "Previous Use".* For purposes of this Section, the term "previous use" shall mean either: (1) the use existing on the site when a concurrency evaluation is sought; or (2) if no active use exists on the site at the time when a concurrency evaluation is sought, then the most recent use on the site within the 10 year period immediately prior to the date of application. The applicant shall provide reasonable sufficient evidence to the satisfaction of the City which establishes the existence of such use. Such evidence may include, but shall not be limited to, utility records, phone bills, income tax returns, tax bills, occupational licenses, etc.

**Sec. 58-35. Concurrency approval application and review procedures.**

(a) Development projects shall be reviewed to determine the effect of the project on the capacity of the following infrastructure systems:

- ~~(a) — Traffic Circulation/Roadway Capacity~~
- (1) Potable Water Production Capacity
- (2) Sanitary Sewer Treatment Capacity
- (3) Park and ~~Recreation Facility~~ Conservation Land Capacity
- (4) Drainage/Stormwater Management
- (5) Solid Waste Collection and Disposal Capacity

(b) Review shall be initiated by the owner, developer or authorized agent by submitting a ~~completed Concurrency Application. The application shall include a~~ site plan drawn from or based on a survey of the site, legal description of the property and all other information requested so that a determination of the size, scale and nature of the infrastructure impacts can be determined. Incomplete submittals will be returned to the applicant. Applications shall be reviewed in the order of acceptance as complete.

**Sec. 58-36. Concurrency determination and issuance of concurrency approval.**

(a) Upon completion of a review by City staff, a ~~written~~ concurrency determination shall be made by city staff issued stating whether infrastructure capacity is available to accommodate the proposed project. ~~The determination shall specify the capacity needed for the project. For any project needing an approval by the City Commission, the staff report shall indicate if inadequate infrastructure capacity exists and in the absence of such indication, adequate capacity shall be deemed to be available. For any project needing only a building permit approval the staff review comments shall indicate if inadequate infrastructure capacity exists and in the absence of such indication, adequate capacity shall be deemed to be available.~~

~~(b) — If the necessary capacity is available, the determination shall constitute a temporary reservation of that capacity for the project for a period of 30 days. During this temporary reservation period, a Concurrency Approval shall be issued upon payment of fees as established by the City Commission.~~



(e) ~~— If the necessary capacity is available, but action by the City Commission is required for approval of the development and the request for Commission action has been submitted, the temporary reservation period shall extend for 30 days following Commission action.~~

(b) If the necessary capacity is not available, the concurrency determination shall identify each infrastructure system where capacity is not available and the extent of the deficiency.

**Sec. 58-37. Expiration of concurrency approvals.**

(a) The concurrency approval shall expire upon the expiration of the building permit or development order for which the certificate was issued including any extensions, renewals, or subsequent development orders for the same project.

(b) ~~— The expiration date for a Concurrency Approval issued in relation to a Development of Regional Impact (D.R.I.), a Florida Quality Development (F.Q.D.), or Development Agreement pursuant to Chapter 163.220 shall be specified in the development order or agreement.~~

(b) Where not otherwise provided a Concurrency Approval shall expire after one year.

**Sec. 58-38. Standards utilized for the review of concurrency approvals.**

(a) The standards utilized for review of available capacity for the issuance of concurrency approvals shall be the level of service standards established in the City's Comprehensive Plan.

**Sec. 58-39. Concurrency evaluations.**

(a) The City shall conduct a concurrency evaluation prior to the issuance or denial of a concurrency approval. The City shall utilize evaluation methodologies as may be approved by the City Commission and the City may also consider, utilize and rely upon in whole or in part, other appropriate methodologies, evaluations, studies, documents, or other information submitted by the applicant that are deemed to provide accuracy in the quantification of infrastructure capacity impacts.

(b) Concurrency evaluations shall be conducted prior to the issuance of all development orders specified in this article as requiring a concurrency approval. In addition, a concurrency evaluation shall be prepared for review in conjunction with all preliminary plats in excess of four lots. For any project needing an approval by the City Commission, the staff report shall indicate if inadequate infrastructure capacity exists and in the absence of such indication, adequate capacity shall be deemed to be available. For any project needing only a building permit approval the staff review comments shall indicate if inadequate infrastructure capacity exists and in the absence of such indication, adequate capacity shall be deemed to be available.

(c) Concurrency evaluations shall also be prepared for review in conjunction with applications for Comprehensive Plan text and map amendments and re-zonings. For any project needing an approval by the City Commission, the staff report shall indicate if inadequate infrastructure capacity exists and in the absence of such indication, adequate capacity shall be deemed to be available.

**Sec. 58-40. Methods of capacity evaluation.**

(a) In performing concurrency evaluations the city staff shall determine the amount of infrastructure capacity necessary to serve the proposed development. If such amount of infrastructure capacity that will be generated can be provided, then the development shall be deemed to be concurrent and, accordingly the requested capacity approval may be issued. If the amount of infrastructure capacity that will be generated cannot be provided, then the development shall be deemed not to be concurrent and, accordingly the requested capacity approval shall not be issued.

(b) In order to measure the demands for infrastructure capacity from development, the following methods shall be utilized:

Infrastructure System

Method

Sanitary Sewer

Capacity - Established by Florida  
Dept. of Environmental Regulation

Demand - Customer demand based on past usage by  
similar users.

Potable Water

Capacity - Established by Florida  
Dept. of Environmental Regulation

Demand - Customer demand based on records of past  
usage by similar users.

Solid Waste

Capacity - As determined by Orange  
County

Demand - Average customer demand based on  
records of past usage

~~Parks & Recreation~~

Capacity - Total existing park and conservation land  
acreage

Demand - Number of permanent residential housing  
units x 2.2 persons.

~~Traffic Circulation—Capacity—Florida Highway Capacity  
Manual  
Demand—Institute of Traffic  
Engineers (ITE) Manual, latest  
edition~~

Drainage

Established in the Stormwater Management Ordinance of Article 6 Land Development Code.

(c) In performing capacity evaluations for potable water and sanitary sewer capacity, the evaluation is ~~not~~ limited to an assessment of the infrastructure capacity available at the applicable water production plant or sanitary sewage treatment facility. The concurrency evaluation does ~~not~~ address the adequacy of capacity in water distribution pipes or sewer collection pipes necessary to serve the proposed development. The city may require the developer to fund or for the developer to cost share with the city, upgrades to the water distribution or sanitary sewer collection system in the general area of the project to address capacity sufficiency. It is the responsibility of applicants for Concurrency Approvals to ascertain whether the water distribution system or sewer collection system is adequately sized or in place as is necessary for that development. The performance of concurrency evaluations and the issuance of concurrency approvals ~~also~~ does not relieve applicants of the responsibility to obtain permits from applicable State or Federal agencies requiring such approvals.

(d) In performing concurrency evaluations for drainage, the evaluation is not limited to an assessment of the conformance to the City's storm water management ordinance as contained in this Land Development Code. The city may require the developer to fund or for the developer to cost share with the city, upgrades to the storm water conveyance system in the general area of the project to address capacity sufficiency. The performance of concurrency evaluations and the issuance of Concurrency Approvals also does not relieve applicants of the responsibility to obtain permits from applicable State or Federal agencies requiring such approvals.

~~(e) In performing concurrency evaluations for traffic circulation or roadway capacity, the evaluation shall conform to the following parameters:~~

~~(a) Level of Service for Backlogged or Constrained Facilities—the City shall not approve development which would increase the traffic volume on the State arterial roadways in the City by more than an additional five percent over the existing traffic volumes provided in the Traffic Element of the Comprehensive Plan. The City shall not approved development which would increase the traffic volume on backlogged or constrained County or City roadways by more than an additional 20 percent over the traffic volume provided in the Traffic Circulation Element of the Comprehensive Plan.~~

~~(b) Time Frame of Traffic Analysis—level of service shall be based on the peak hour (p.m.) directional traffic flow. Staff shall adjust the traffic count information as needed to reflect average peak hour/peak directional conditions as derived from traffic count stations.~~



- (c) ~~Trip Generation Rates~~—these shall be based on the latest edition of ITE's Trip Generation Manual or other specific local site surveys deemed by the City to be representative of the proposed use. All generated trips shall be assumed to be external, unless documented. Any internal capture passerby, or transit that is assumed, must be documented and agreed upon prior to analysis and subject to acceptance by City staff. Trip Distribution and Assignment method shall be approved by the City prior to analysis.
- (d) ~~Traffic Studies Required~~—for projects that generate more than 100 total new net trip ends per day, the applicant shall provide a traffic study which is certified by a Florida registered professional engineer or transportation planner approved by the City. For projects that generate between 21 and 100 total new net trip ends per day, the applicant has the option of submitting a traffic study. For projects generating 20 or less new net trip ends per day, there shall be no requirement for a traffic study. The City staff shall be responsible for tracking and logging the cumulative impact of all development projects.
- (e) ~~Traffic Impact Area~~—In determining the impact of a project on roadways, the review shall encompass the impact within, at minimum, one half mile of the development site. However, the City may require a larger traffic impact area to be studied based on the scale of the project and its traffic generation.

**~~Sec. 58-41. Proportionate fair share option to mitigate deficit transportation facilities.~~**

- (a) ~~Purpose and Intent.~~ The purpose of this section is to establish a method whereby the impacts of development on transportation facilities can be mitigated by the cooperative efforts of the public and private sectors, to be known as the Proportionate Fair Share Program, as required by and in a manner consistent with §163.3180(16), F.S.
- (b) ~~Findings.~~ The City Commission finds and determines that transportation capacity is a commodity that has a value to both the public and private sectors and that the City's Proportionate Fair Share Program:
  - (1) ~~Provide a method by which the impacts of development on transportation facilities can be mitigated by the cooperative and creative efforts of the public and private sectors;~~
  - (2) ~~Allows developers to proceed under certain conditions, notwithstanding the failure of transportation concurrency, by contributing their proportionate fair share of the cost of expanding or improving a transportation facility;~~
  - (3) ~~Contributes to the provision of adequate public facilities for future growth and promotes a strong commitment to comprehensive facilities planning, thereby reducing the potential for moratoria or unacceptable levels of traffic and transportation congestion;~~

~~(4) Maximizes the use of public funds for adequate transportation facilities to serve future growth, and may, in certain circumstances, allow the City to expedite transportation improvements by supplementing funds currently allocated for transportation improvements in the Capital Improvements Element; and~~

~~(5) Is consistent with §163.3180(16), F.S. and the City's Comprehensive Plan.~~

~~(c) Applicability. The Proportionate Fair Share Program shall apply to any development project in the City of Winter Park where the project's traffic impact study and the City's traffic engineer determines that there is insufficient capacity on one or more segments to satisfy the development project's transportation concurrency requirements. The Proportionate Fair Share Program does not apply to Developments of Regional Impact (DRIs) using proportionate fair share under §163.3180(12), F.S., or to developments exempted from concurrency as provided in this concurrency chapter.~~

~~(d) General Requirements.~~

~~(1) An applicant whose project meets the criteria of Section 168.03 may choose to satisfy transportation concurrency requirements by making a proportionate fair share contribution, pursuant to the following requirements:~~

~~a. The proposed development is consistent with the comprehensive plan and applicable land development regulations, and~~

~~b. The five year schedule of capital improvements in the City's Capital Improvements Element (CIE), which includes Federal, State, County and other local governments capital improvements, includes one or more transportation improvements that, upon completion, will provide sufficient capacity for the deficient segments to accommodate the traffic generated by the proposed development.~~

~~(2) The City may choose to allow an applicant to satisfy transportation concurrency for a deficient segment, through the Proportionate Fair Share Program, by the developer contributing to an improvement that, upon completion, will create additional capacity on the deficient segment sufficient to accommodate the additional traffic generated by the applicant's proposed development even if the improvement project for the deficient segment is not contained in the 5 year schedule of capital improvements in the CIE where:~~

~~a. The City Commission holds an advertised public hearing to consider the proportionate share agreement and corresponding future changes to the 5 year CIE, and~~

~~b. The City adopts, by ordinance, an amendment adding the improvement to the 5-year schedule of capital improvements in the CIE. To qualify for consideration under this section, the proposed improvement must be reviewed by the City Commission, and determined to be financially feasible pursuant to §163.3180(16)(b)1, F.S., consistent with the comprehensive plan, and in compliance with the provisions of this ordinance. Financial feasibility for this section means that additional contributions, payments or revenue sources to fund the improvement project are reasonably anticipated during a period not to exceed 10 years.~~

- ~~(3) If the funds allocated for the five year schedule of Capital Improvements in the CIE are insufficient to fully fund construction of a transportation modification required by concurrency, the City may still enter into a binding proportionate fair share agreement with the applicant authorizing construction of that amount of development on which the proportionate fair share is calculated if the proportionate fair share amount in such agreement is sufficient to pay for one of more projects which will, in the opinion of the governmental entity or entities maintaining the transportation facilities, sufficiently benefit the impacted transportation system.~~
- ~~(4) Transportation projects shall include, but not be limited to: highway related improvements such as roadway modification, roadway widening, intersection improvements; and system related improvements such as traffic management systems, transportation systems management, intelligent transportation systems, expansion of the transit fleet to increase service frequency, bus rapid transit and other fixed guideway corridors, transit service expansion to new areas, or other mobility projects improving the pedestrian and/or bicycle level of service.~~
- ~~(5) Any improvement project proposed to meet a developer's fair share obligation must meet design standards of the City for locally maintained roadways, Orange County for county maintained roads and of the Florida Department of Transportation (FDOT) for the state highway system.~~

~~(e) *Application Process.*~~

- ~~(1) Upon identification of a lack of capacity to satisfy transportation concurrency, the applicant may choose to satisfy transportation concurrency through the proportionate fair share program pursuant to the requirements of Section 168.02.9.~~
- ~~(2) Prior to submitting an application for a proportionate fair share agreement, the applicant shall attend a pre-application meeting with the City Manager or designee to discuss eligibility, application submittal requirements, potential mitigation options, and related issues. The pre-application meeting may be held in conjunction with a traffic study meeting.~~



~~(3) Eligible applicants shall submit an application to the City that includes an application fee as established by resolution and the following:~~

- ~~a. Name, address, and phone number of owner(s), developer and agent;~~
- ~~b. Property location, including parcel identification numbers;~~
- ~~c. Legal description and survey of property;~~
- ~~d. Project description, including type, intensity, and amount of development;~~
- ~~e. Phasing schedule, if applicable;~~
- ~~f. Description of requested proportionate fair share mitigation method(s);~~
- ~~g. Copy of concurrency application;~~
- ~~h. Copy of the project's Traffic Impact Statement (TIS) or Traffic Impact Analysis (TIA); and~~
- ~~i. Location map depicting the site and affected road network.~~

~~The application shall be submitted at the time of application for development plan review, Special Use Permit approval, subdivision or minor subdivision approval, or rezoning.~~

~~(4) The City Manager or designee shall review the application and certify that the application is sufficient and complete. Should the application require the City to use the professional services of a consultant, the applicant shall bear all expenses incurred by the City for use of such consultant services. If an application is determined to be insufficient, incomplete, or inconsistent with the general requirements of the proportionate fair share program as indicated in Section 168.02.9, then the applicant shall be notified in writing of the reasons for such deficiencies. If such deficiencies are not remedied by the applicant within 30 days of receipt of the written notification, then the application shall be deemed abandoned. The City Commission may, in its discretion, grant an extension of time not to exceed 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.~~

~~(5) When an application is deemed sufficient, complete, and eligible, a proposed proportionate fair share obligation and binding agreement will be prepared by the City or the applicant with direction from the City and delivered to the appropriate parties for review.~~

~~(6) The City shall notify the applicant regarding the date of the City Commission meeting at which the agreement will be considered for final approval. No~~

~~proportionate fair share agreement will be effective until approved by the City Commission.~~

~~(f) Determining Proportionate Fair Share Obligation.~~

- ~~(1) Proportionate fair share mitigation for concurrency impacts may include, separately or collectively, private funds, contributions of land, and construction and contribution of facilities as provided in §163.3180 (16)(e), F.S. Construction and contribution of facilities shall be subject to final inspection and approval by the appropriate governmental agency.~~
- ~~(2) A development shall not be required to pay more than its proportionate fair share. The fair market value of the proportionate fair share mitigation for the impacted facilities shall not differ based on the form of mitigation as provided in §163.3180 (16)(e), F.S.~~
- ~~(3) The methodology used to calculate an applicant's proportionate fair share obligation shall be as provided for in Section 163.3180 (12), F. S., as follows: The cumulative number of peak hour, peak direction trips from the complete build-out of the proposed development, or build-out of the stage or phase being approved, that are assigned to the proportionate share program segment divided by the change in the peak hour directional maximum service volume (MSV) of the proportionate share program segment resulting from construction of the proportionate share program improvement, multiplied by the anticipated construction cost of the proportionate share project in the year that construction will occur. This methodology is expressed by the following formula:~~

$$\text{Proportionate Fair Share} = \sum [\text{Development Trips}_i] \div (\text{SV Increase}_i) \times \text{Cost}_i]$$

~~(Note: In the context of the formula, the term "cumulative" does not include a previously approved stage or phase of a development.)~~

~~Where:  $\sum$  = Sum of all deficient links proposed for proportionate fair share mitigation for a project.~~

~~Development Trips<sub>i</sub> = Those trips from the stage or phase of development under review that are assigned to roadway segment "i" and have triggered a deficiency per the concurrency management system;~~

~~SV Increase<sub>i</sub> = Service volume increase provided by the eligible improvement to roadway segment "i";~~

~~Cost<sub>i</sub> = Adjusted cost of the improvement to segment "i". Cost shall consist of all improvements and associated costs, including design, right of way acquisition, planning, engineering, inspection, and physical development costs, directly~~

associated with construction at the anticipated cost in the year that construction will occur.

- (4) For purposes of determining proportionate fair share obligations, the City shall determine improvement costs based upon the actual and/or anticipated costs of the improvement in the year that construction will occur. These costs will be determined or approved by the City's public works department.
- (5) If the City has accepted an improvement project proposed by the applicant, then the value of the improvement shall be based on an engineer's certified cost estimate provided by the applicant and approved by the City's public works director or other method approved by the City's public works director.
- (6) If the City has accepted right of way dedication for the proportionate fair share payment, credit for the dedication of the non-site related right of way shall be valued on the date of the dedication at 100 percent of the most recent assessed value by the County Property Appraiser or, at the option of the applicant, by fair market value established by an independent appraisal approved by the City and at no expense to the City. Said appraisal shall assume no approved development plan for the site. 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 City at no expense to the City. If the estimated value of the right of way dedication proposed by the applicant (based on a City-approved appraisal) is less than the City estimated total proportionate fair share obligation for that development, then the applicant must also pay the difference. If the estimated value of the right of way dedication proposed by the applicant (based on a City-approved appraisal) is more than the City estimated total proportionate fair share obligation for the development, then the City will give the applicant traffic impact fee credit for the difference, if available.
- (7) The City, at its discretion, may allow developments to contribute proportionate fair share to system wide projects, either solely or in conjunction with highway related improvements. For the purposes of determining proportionate fair share obligations for system wide transportation improvements such as transit service, the City shall determine improvement/modification cost based upon the actual cost of the improvement/modification as obtained from the City's public works department. The transit costs shall be calculated as follows:

Development's net, new peak hour trip generation  $X$  (Transit Service Cost/Transit Service New Peak Trips) / CF, where:

Transit Service Cost = actual cost of the service improvements within City (first 3 years)



~~Transit Service New Peak Trips = the new transit trips available in the peak hour based on the transit service or transit service enhancements~~

~~CF = the conversion factor of person trips to vehicle trips (the current vehicle occupancy rate per the local transportation model is 1.20, and should be confirmed before use).~~

~~(g) Impact Fee Credit for Proportionate Fair Share Mitigation. If the City adopts transportation impact fees, the following provisions shall apply.~~

- ~~(1) Proportionate fair share mitigation payments for a development project shall be applied as a credit toward the traffic impact fees assessed to that development project.~~
- ~~(2) Impact fee credits for a proportionate fair share contribution will be determined when the traffic impact fee obligation is calculated for the proposed development. If the applicant's proportionate fair share obligation is less than the development's anticipated road impact fee for the specific stage or phase of development under review, then the applicant must pay the remaining impact fee amount.~~
- ~~(3) A proportionate fair share contribution is intended to mitigate the transportation impacts of a proposed development at a specific location. As a result, any traffic impact fee credit based upon proportionate fair share contributions for a proposed development may not be transferred to any other location.~~
- ~~(4) The amount of traffic impact fee (TIF) credit for a proportionate fair share contribution may be up to but shall not exceed the project's proportionate fair share amount and will be determined based on the following formula:~~

$$\text{TIF Credit} = \frac{[(\text{Proportionate fair share impacted roadways' VMT}) + (\text{Total Project VMT})]}{(\text{Total Project Traffic Impact Fee Liability})}$$

~~Where:~~

~~VM T (Vehicle miles of travel on a link) = (length of link) X (number of trips assigned to that link)~~

~~Total Project VM T = Total vehicle miles of travel on all links impacted by proportionate fair-share project~~

- ~~(5) A proportionate fair share impact fee credit shall be applied consistent with the following formula:~~

$$\text{Applicant payment} = [(\text{Total project traffic impact fees assessed}) + (\text{Proportionate Share Payment})] - (\text{TIF CREDIT})$$

~~(h) Proportionate Fair Share Agreements.~~

- ~~(1) Upon executing a proportionate fair share agreement (Agreement) and satisfying other concurrency requirements, an applicant shall receive concurrency approval for subject trips. Should the applicant fail to apply for building permits within the timeframe provided for in the City concurrency approval, then the project's concurrency vesting shall expire, and the applicant shall be required to reapply. Once a proportionate share payment for a project is made and other impact fees for the project are paid, no refunds shall be given. All payments, however, shall run with the land.~~
- ~~(2) Payment of the proportionate fair share contribution for a project and payment of other impact fees assessed to that project shall be due and must be paid prior to the effective date of the proportionate fair share agreement. The effective date shall be specified in the agreement and shall be the date the agreement is approved by the City Commission.~~
- ~~(3) All developer improvements accepted as proportionate fair share contributions must be completed within 3 (three) years of the issuance of the first building permit for the project which is the subject of the proportionate fair share agreement and be accompanied by a security instrument that is sufficient to ensure the completion of all required improvements. The security instrument shall conform to specifications set by the City Commission and approved by the City attorney. It is the intent of this section that any required improvements be completed within 3 (three) years of the issuance of the first building permit for the project which is the subject of the proportionate fair share agreement.~~
- ~~(4) Dedication of necessary right of way for facility improvements pursuant to a proportionate fair share agreement must occur prior to the effective date of the proportionate fair share agreement.~~
- ~~(5) Any requested change to a development project subsequent to issuance of a development order shall be subject to additional proportionate fair share contributions to the extent the change would increase project costs or generate additional traffic that would require mitigation.~~
- ~~(6) Applicants may withdraw from a proportionate fair share agreement at any time prior to the execution of the agreement. The application fee and any associated advertising costs to the City are nonrefundable.~~
- ~~(7) The City may enter into proportionate fair share agreements for selected corridor improvements to facilitate collaboration among multiple applicants on improvements to a shared transportation facility.~~

~~(i) Appropriation of Fair Share Revenues.~~



- ~~(1) Proportionate fair share revenues shall be placed in the appropriate project account for funding of scheduled improvements in the City Capital Improvements Element, or as otherwise established in the terms of the proportionate fair share agreement. Proportionate fair share revenues may also be used as the 50% local match for funding under the FDOT Transportation Regional Incentive Program (TRIP).~~
- ~~(2) In the event a scheduled facility improvement is removed from the CIP or CIE, then the proportionate fair share revenues collected for its construction may be applied toward the construction of alternative improvements within that same corridor or sector where the alternative improvement will mitigate the impacts of the development project on the congested roadway(s) for which the original proportionate fair share contribution was made.~~

**Sec. 58-41. Infrastructure capacity reporting and monitoring.**

- (a) Periodically, the city staff shall complete and submit to the City Commission an Annual Capacity Availability Report. This report shall evaluate development permitting activity for the previous year and determine existing conditions with regard to available capacity for the infrastructure facilities subject to concurrency. The report shall specify the capacity used during the previous year and shall evaluate and project the capacity available and the time remaining until available infrastructure capacity is exhausted. The report shall also include any vested capacity as well as that for which development orders have been issued. The report shall include survey data available from published sources and data specifically compiled by the city in order to monitor and maintain an accurate assessment of available infrastructure capacity and the use of existing infrastructure capacity.

**Sec. 58-42. Capacity reservations in furtherance of the comprehensive plan.**

- (a) Infrastructure capacity may be reserved to accommodate redevelopment activities within Community Redevelopment Districts established pursuant to Chapter 163 in furtherance of the goals, objectives and policies of the Comprehensive Plan. The actual percentage or amount of capacity reserved and the nature of development entitled to use the reserved capacity shall be established by the City Commission.
- (b) Infrastructure capacity may be reserved to accommodate public facilities provided for in the Capital Improvements Element of the Comprehensive Plan. The actual percentage or amount of capacity reserved for a particular public facility shall be established by the City Commission.

**Sec. 58-43. Appeals.**

- (a) A concurrency determination, concurrency approval, or exemption determination may be appealed by the applicant by filing a written notice of appeal within 15 days after receipt of the decision. While an appeal is pending, capacity shall be temporarily reserved for the project which is the subject of the appeal.



(b) Appeals must also include any fees established by the city commission. The city commission shall function as the concurrency appeals board. Appeals shall be heard by the city commission within 30 days of filing. The city manager, after consideration of information from effected City departments, shall provide to the city commission a staff recommendation on the appeal. The decision of the concurrency appeals board shall be the final administrative action.