

CHAPTER 3. CONCURRENCY

3.00.00. GENERALLY

3.00.01. *Purpose and Intent*

The purpose of this chapter is to describe the requirements and procedures necessary to implement the concurrency provisions of the Walton County Comprehensive Plan. Specifically, this chapter is intended to ensure the availability of public facilities and services and the adequacy of those facilities at adopted levels of service concurrent with the impacts of development. This intent is implemented by means of a concurrency management system that will measure the potential impact of a development upon the adopted minimum acceptable level of service for potable water, sewer, solid waste, stormwater management, parks and recreation, and roadway facilities as provided in the Walton County Comprehensive Plan. As detailed below and consistent with Chapter 1, less than minor and minor developments requires the issuance of a development order by the Director of Planning and Development Services, or designee, before development can commence or any permits can be secured from the county for construction of an approved minor project. A major development requires the rendition of both a final order by the Board of County Commissioners and a development order by the Department of Planning and Development Services before development can commence or any permits can be secured from the county for construction of an approved major project. (Ord. No. 2007-10, Section 1, 7-10-07)

3.01.00. TRANSPORTATION CONCURRENCY REVIEW

3.01.01. *Expiration of Transportation Certificate of Concurrency for Application for Minor or Major Development; Approval*

- A. General Applicability. Every application for the approval of a less than minor, minor or major development, unless otherwise exempt, must include a transportation concurrency analysis that is consistent with Chapter 3 of the Land Development Code and the Walton County Transportation Concurrency Management System Methodology and Procedures Manual. Transportation concurrency analyses shall be received as part of the application for development approval by the Department of Planning and Development Services (department), and reviewed by the county's transportation concurrency manager. Once an application for less than minor, minor or major development order approval is determined to be complete, consistent with the requirements of Chapter 1 of this Code, the transportation concurrency manager shall review the traffic analysis based on the date, and in the order, the complete application was received and logged in by the department. If the transportation concurrency manager approves the traffic analysis, the department shall issue the applicant a certificate of concurrency that temporarily reserves transportation capacity for the proposed project in the county's Transportation Concurrency Management System (CMS) database for a six-month period. A certificate of concurrency shall automatically expire at the conclusion of this six-month period, except as otherwise provided herein. Upon expiration, any traffic capacity reserved for a proposed project by the certificate of concurrency shall be released from reservation and the county's CMS database will be updated to reflect this released, unused capacity. In the event the transportation concurrency manager disapproves of an applicant's traffic analysis or determines that the

analysis is deficient, the applicant shall have 30 days following notification to revise the analysis and/or correct any deficiencies. Thereafter, any subsequent submittal to revise the analysis or correct any deficiencies shall be treated as re-submittals, and the traffic analysis shall be reviewed based on the date the re-submittal was received and in the order logged in by the department.

B. Less than Minor and Minor Development. For a minor development as defined in Chapter 1 of this Code, a certificate of concurrency shall automatically expire six months after it is issued unless:

- (1) the Technical Review Committee has completed its review of the complete application and provided its comments and recommendations to the director;
- (2) the director has approved the application for minor development approval; and
- (3) the department has issued a development order for the approved minor project. In that circumstance, the certificate of concurrency shall be automatically extended and shall remain valid until the development order expires. A certificate of concurrency shall automatically expire simultaneously with the expiration of the development order, unless:
 - (a) the infrastructure improvements committed to secure the development order for the minor development have been fully completed within the two year period following the issuance of the development order; or
 - (b) as applicable, the applicant has timely paid the project's nonrefundable proportionate fair share in full accordance with the requirements of Walton County Transportation Concurrency Management System Methodology and Procedures Manual. If either criterion is timely satisfied, the development order shall be deemed vested for traffic concurrency for the approved project.

C. Major Development. For a major development as defined in Chapter 1 of this Code, a certificate of concurrency shall automatically expire six months after it is issued unless: (1) the Technical Review Committee has completed its review of the application and provided its comments and recommendations to the director; and (2) the director has issued his or her report recommending approval, approval with conditions, or denial of the application to the Planning Commission. In that event, the certificate of concurrency shall be automatically extended for an additional six-month period to facilitate timely review of the application by the Planning Commission and the Board of County Commissioners consistent with the requirements of this Code, and the board's issuance of a final order. Except for final orders issued for a phased project, as more particularly described below, a final order approving a major development application shall be valid for a period of two years from rendition; and may be renewed for an additional year. A certificate of concurrency for a major development shall automatically expire simultaneously with the expiration of a final order unless:

- (1) within this two-year period the applicant secures the requisite development order for the project and completes all of the site's infrastructure improvements; or

(2) as applicable, the applicant timely pays the project's non-refundable proportionate fair share in full in accordance with the requirements of Walton County Transportation Concurrency Management System Methodology and Procedures Manual. If either criterion is timely satisfied, the development order shall be deemed vested for traffic concurrency for the approved project.

- D. Exception. Any Final Order that has an expiration date of September 1, 2008 through January 1, 2012, may be extended and renewed for a period of two years following its date of expiration. Final Orders that are extended will continue to be governed under the rules in effect at the time the Final Order was issued. The holder of a valid Final Order eligible for the two-year extension shall notify the County authorizing agency in writing no later than December 31, 2009, and request the extension. If the applicant fails to secure the requisite development order for a major development within two years from rendition of a final order, the certificate of concurrency shall automatically expire at the conclusion of this two-year period. Thereafter, an applicant seeking to secure approval for the project after the expiration of a certificate of concurrency shall be required to submit an updated traffic concurrency analysis to reflect then current conditions, for which a reasonable fee shall be assessed for the cost of the new review. Based on approval of the updated analysis by the traffic concurrency manager, the applicant shall be required to apply for an amended final order from the Board of County Commissioners to address any deficiencies identified in the updated analysis, and to pay the project's additional proportionate fair share, as warranted, as a condition precedent to securing a development order for the project. In the event a minor or major development order is challenged pursuant to F.S. Section 163.3215, the timelines for the expiration of the development order and certificate of concurrency, as detailed above, shall be tolled until all legal challenges are exhausted.
1. Master Development Phased Projects. A final order approving a major development application for a phased project, referred to herein as a "master development", other than a planned unit development, which is addressed in Chapter 2 of this Code, shall be valid for a period of two years from rendition. A certificate of concurrency for a phased project shall automatically expire simultaneously with the expiration of the final order for the master development unless the applicant secures the requisite development order for the project within this two-year period, and
 2. Completes the infrastructure for all phases of the master development, as approved; or
 3. Pays the master development's non-refundable proportionate fair share in full for all phases of the master development in accordance with the requirements of Appendix C.3; or
 4. Completes, at a minimum, the site's infrastructure improvements for the first phase of the approved master development and/or timely pays the master development's non-refundable proportionate fair share for the first phase of the master project, as applicable, in accordance with the requirements of the Walton County Transportation Concurrency Management System Methodology and Procedures Manual; and
 5. Enters into a development agreement in accordance with the requirements of F.S. Sections 163.3220--163.3243, wherein the county and the applicant agree to a schedule

for the timely construction and completion of the infrastructure for each remaining phase of the approved master development and/or the timely payment of the non-refundable proportionate fair share for each of the remaining phases of the approved master development. For purposes of this section, "timely completion" of the site's infrastructure means that construction of the infrastructure for each phase of the master development is scheduled to commence, and commences, within one year of completion of the prior phase, and is scheduled to be completed, and is completed, within two years of the scheduled commencement date for that phase. The certificate of concurrency shall expire automatically if any phase of the master development is not timely completed in accordance with the timelines adopted in the development agreement. Upon the expiration of the certificate of concurrency for a master development, any unused traffic capacity reserved by the certificate for the remaining phases of the master project will be released from reservation and the county's CMS database will be updated to reflect this released, unused capacity.

6. Expiration of Transportation Certificate of Concurrency for Preexisting Final Orders. An applicant with a final order issued or rendered by the Board of County Commissioners prior to the date of this amendment, but who has not secured a development order as of this date, shall have traffic capacity temporarily reserved for the project, as approved, for three years commencing on the date of adoption of this amendment, subject to the following conditions and limitations:
 - a. A detailed traffic concurrency analysis was submitted with the application for major development approval which was approved by the transportation concurrency manager, as evidenced by the issuance of a certificate of concurrency and/or the reservation of transportation capacity in the county's Transportation Concurrency Management System concurrent with the issuance or rendition of the final order by the Board of County Commissioners;
 - b. The certificate of concurrency for the approved final order shall be deemed valid for a period of three years from the date of adoption of this amendment;
 - c. The applicant secures the requisite development order for the approved project within this three-year period and completes all of the site's infrastructure improvements; or as applicable, the applicant timely pays the non-refundable proportionate fair share in full for the approved project in accordance with the requirements of the Walton County Transportation Concurrency Management System Methodology and Procedures Manual;
 - d. The certificate shall automatically expire at the end of this three-year period if the applicant fails to secure a development order for the approved project in accordance with the requirements of this Code and this section; and
 - e. Upon the expiration of this certificate of concurrency, any traffic capacity reserved for the project by the certificate of concurrency will be released from reservation and the county's CMS database will be updated to reflect this released, unused capacity. (Ord. No. 2007-10, Section 1, 7-10-07; Ord. No. 2009-04, Section 1, 4-14-09; Ord. No. 200915, Section 1, 9-8-09)

3.01.02. Burden of Proof

The burden of showing compliance with the adopted levels of service and meeting the concurrency evaluation shall be upon the applicant. The Director of Planning and Development Services will assist in the preparation of the necessary documentation and information. (Ord. No. 2007-10, Section 1, 7-10-07)

3.02.00. EXEMPTIONS

Any person seeking an exemption from the terms of this chapter shall submit substantial competent evidence to the Director of Planning and Development Services to demonstrate the entitlement to the exemption. (Ord. No. 2007-10, Section 1, 7-10-07)

3.01.04. Exempt Activities

The following development activities shall be deemed to be exempt from the provisions of this chapter:

- A. Development with a development order issued on or before the adoption date of this amendment to this Code, if:
1. The project's infrastructure improvements were completed prior to expiration of the development order; or
 2. The project's infrastructure improvements substantially commenced and were continuing in good faith toward completion prior to the expiration of the development order to such an extent that any development rights conferred by the unexpired development order have vested. Development rights vest under this section when the Board of County Commissioners makes a determination that the person alleging vested rights:
 - a. Has relied in good faith;
 - b. Has relied upon some act or omission of the government; and
 - c. Has made such a substantial change in position or incurred such extensive obligations and expenses that it would be highly inequitable and unjust to destroy the rights he or she has acquired. It shall be the duty and responsibility of the person alleging vested rights to demonstrate affirmatively the legal requisites of vested rights. The board shall adopt administrative procedures to afford due process to persons alleging vested rights. For purposes of this section, the purchase price of the property, the expense of securing development order approval, or the mere existence of land use or zoning prior to the effective date of this section shall not be determined to vest any development rights.
- B. Development with a development order for a development of regional impact adopted on or before the adoption date of this Code, unless the development order:
1. Expressly states otherwise;

2. Expires according to its terms and has not been extended;
 3. Is amended, but only as to the amended portions of the development order; or
 4. Is invalidated in whole or as to the invalidated parts, in part.
- C. Construction of public facilities that are identified in the capital improvements element of the Walton County Comprehensive Plan that are required in order to achieve level of service standards adopted in the comprehensive plan pertaining to public facilities and services.
- D. De Minimis Developments, i.e., projects of such low intensity or density so as to have a de minimis impact, if any, upon the level of service standards for roadways set forth in the Walton County Comprehensive Plan. For the purposes of this chapter, de minimis developments are defined in Section 6.A of the Walton County Transportation Concurrency Management System Methodology and Procedures Manual as follows:
1. The impact of a single-family home on an existing lot of record, or the replacement of an existing dwelling unit when no additional dwelling units are created, will be exempt from the transportation concurrency requirements of this chapter.
 2. Developments generating less than five trips during an average weekday PM peak hour will be considered to have a de minimis impact on the Transportation Concurrency Network. However, a PM peak hour trip distribution, consistent with Section 10 of the Walton County Transportation Concurrency Management System Methodology and Procedures Manual will be provided by the Applicant (or conducted by County staff) to adequately account for committed demand in the Walton County Concurrency Management System. These external project trips will be assigned only to the directly accessed segment on the Transportation Concurrency Network. No further review of the transportation impacts of a de minimis development will be required and a final concurrency determination may be issued subject to other provisions contained elsewhere in the Walton County Land Development Code. Specific parameters for defining de minimis impacts on a given roadway segment in the County's Transportation Concurrency Network are defined in Section 11.C.1.a of the Walton County Transportation Concurrency Management System Methodology and Procedures Manual. (Ord. No. 2007-10, Section 1, 7-10-07).

3.03.00. GENERAL CONCURRENCY REVIEW

3.03.01. *Generally*

Walton County shall use the procedures listed below to determine compliance of an application for a development order with this concurrency management system. At the time of application for a development order, a concurrency evaluation shall be made to determine the availability of the facilities or services required to be concurrent. An applicant for a development order shall provide the county with all information required to enable the concurrency evaluation to be made. Upon receipt of a complete concurrency review application, the Director of Planning and Development Services shall perform the concurrency evaluation for each of the public facilities and services. A concurrency review application shall not be deemed complete until all

applicable permits, verification letters or other proof has been submitted pursuant to section 3.03.02 below. (Ord. No. 2007-10, Section 1, 7-10-07)

3.03.02. Level of Service Standards

The Walton County Comprehensive Plan establishes level of service standards for transportation, drainage, potable water, sanitary sewer and recreation. The Concurrency Review shall evaluate all development projects to ensure compliance with the level of service standards established by the Comprehensive Plan below.

- A. Transportation. Walton County shall implement a Concurrency Management System, with the application of Transportation Element polices of the Comprehensive Plan and Land Development Code provisions to ensure adequate provisions to ensure adequate Level of Service (LOS) are maintained on the network as follow:
1. All County roadways within Walton County as identified in the Concurrency Management System shall operate at a peak hour Level of Service D, with the exception of the following constrained roadways:
 - a. CR 30A US 98 on the West End to US 98 on the East End
 - b. CR 2378 Okaloosa County Line to US 98 on the East End
 2. All State roadways identified in the Concurrency Management System shall operate at automobile peak hour service D, except State Highway system (SHS) facilities shall operate at peak hour level of standards consistent with Rule 14-94, F.A.C.
 3. Developments that are determined to be creating a level of service deficiency shall be required to contribute a proportionate-share of the necessary improvements to correct the deficiency.
- B. Sanitary Sewer Facilities. 100 gallons per capita per day (GPCPD). The County shall adopt land development regulations which ensure that existing and projected needs are met through provisions which ensure that development orders are not issued which degrade the level of service standards. Minimum service shall be consistent with Table II, Chapter 10D-6, F.A.C.
- C. Solid Waste. Disposal Capacity 6 pounds per capita, per day
- D. Drainage Facilities. Walton County shall maintain a level of service standard, for new and existing development, based on the following stormwater quantity and quality criteria:

Design Storm Frequency and Water Quality Treatment Volumes FACILITY	<u>ATTENUATION / DESIGN STORM</u>	<u>WATER QUALITY TREATMENT</u>
Bridges	50 Year	N/A
Canals, ditches, or culverts for drainage external to the development	25 Year	N/A
Cross drains, storm sewers	10 Year	N/A
Roadside swales for drainage internal to the development	10 Year	N/A
Detention/Retention basins with positive outfall	25 Year ^{1,2}	1" / 0.5" ^{3,4,5}
Detention/Retention basins without positive outfall	100 Year ¹	1" / 0.5" ^{3,4,5}

¹ See Policy I-4.5.8.B
² See Policy I-4.5.8.C
³ See Policy I-4.5.8.D
⁴ See Policy I-4.5.8.E
⁵ See Policy I-4.5.8.F

- E. Potable Water Facilities. 100 gallons per capita per day (GPCPD). Consistent with the County’s adopted Water Supply Facilities Work Plan (WSFWP) incorporated by reference in the FLUE Policy L-1.14.2, development orders are not issued which degrade the level of service standard. The County hereby adopts a minimum standard of 20 pounds per square inch (psi) and 650 gallons per minute (gpm) for potable water lines, or a higher standard as determined by the County Fire Department to be necessary.
- F. Recreation Facilities. The County will maintain a minimum of 6.25 acres to 1,000 population level of service for recreation facilities.

3.03.02. Evaluation

A. Roads. The Walton County Transportation Concurrency Management System Methodology and Procedures *Manual* provides details for conducting and reviewing a transportation concurrency analysis.

B. Potable Water

1. Submittals. The applicant for a development order shall submit, along with the application for a development order, proof that sufficient capacity exists as demonstrated by one of the following:
 - a. If the service provider is other than an onsite potable water well, documentation will be required from the provider that the project is within its service area and that it has the capacity to serve the project as

proposed, at or above the adopted level of service. If the ability of a provider to serve a proposed project is contingent upon planned facility expansion, details regarding such planned improvements shall also be submitted. Prior to the issuance of a final development order by the county, the applicant may be required to provide evidence of a contract with the service provider, indicating the provider's commitment and ability to serve the proposed project; or

- b. Permits issued by the Northwest Florida Water Management District for a potable water well to serve the development.
 - c. For owner-occupied mobile homes, a notarized affidavit from the applicant that there is an existing functioning potable water well on the site.
2. Presumption of Available Capacity. A presumption of available capacity shall be rendered by the Director of Planning and Development Services upon receipt of one of the above.

C. Wastewater

1. Submittals. The applicant for a development order shall submit, along with the application for a development order, proof that sufficient capacity exists as demonstrated by one of the following:
- a. If the proposed service provider is other than an onsite septic system, documentation will be required from the provider that the project is within its service area and that it has the capacity to serve the project as proposed, at or above the adopted level of service. If the ability of a provider to serve a proposed project is contingent upon planned facility expansion, details regarding such planned improvements shall also be submitted. Prior to the issuance of a final development order by the county, the applicant may be required to provide evidence of a contract with the service provider indicating the provider's commitment and ability to serve the proposed project; or
 - b. All applicable HRS permits for an onsite septic system, pursuant to Rule 10D6, F.A.C., are obtained.
2. Presumption of Available Capacity. A presumption of available capacity shall be rendered by the Director of Planning and Development Services upon receipt of one of the above.

D. Stormwater Management

1. Submittals. The applicant for a development order shall submit, along with the application for the development order, proof that an application has been submitted to the FDEP. Prior to the issuance of a development order, the applicant must provide the

following:

- a. All applicable department of environmental protection (DEP) permits for stormwater management systems are obtained; and/or
 - b. All applicable department of transportation (DOT) permits for stormwater connections, pursuant to Rule 14-86, F.A.C. are obtained; and/or
 - c. All applicable Northwest Florida Water Management District (NFWWMD) permits are obtained.
2. Presumption of Available Capacity. A presumption of available capacity shall be rendered by the Director of Planning and Development Services upon receipt of the applicable DEP, DOT, and/or NFWWMD permits.

E. Solid Waste

1. Countywide Presumption of Available Capacity. Based upon the data and analysis supportive to the Walton County comprehensive plan, adequate capacity exists for estimated demand for solid waste services through the planning period. Therefore, a presumption of available capacity for all development shall be rendered by the Director of Planning and Development Services for the period beginning on the adoption date of this Code and through the submission of the first concurrency management system annual report. At such time, and for each subsequent annual report, the available capacity for solid waste shall be reassessed, and a determination made as to whether the presumption of available capacity is to be continued.

F. Recreation and Open Space

1. Parks and recreation impact fees are used to fund acquisition and expansion of parks and recreation service-related capital assets required to address the additional parks and recreation service demand created by new growth. Developers are required to dedicate a minimum of 5% of the gross area of a residential development or mixed use development with a residential component for public recreation purposes, which may include public beach access ways. Developers shall have the option of providing land off-site that is of similar value that is usable for park and recreational facility development and that is located within a one mile radius of the proposed development. Alternatively, the developer of a residential development or mixed use development with a residential component shall pay cash in an amount equal to 6% of the assessed land value, as provided by the Walton County Property Appraiser, of the unimproved land.

3.03.03. Minimum Requirements for Concurrency (Determination of Availability)

In order to obtain a certificate of concurrency, one of the following conditions must be satisfied for each of the public facilities and services, and such condition given in the certificate of concurrency:

- A. For potable water, sewer, solid waste & stormwater, at a minimum, provisions in the county Comprehensive Plan that ensure that the following standards will be met will satisfy the concurrency requirement:
1. The necessary facilities and services are in place at the time a development order is issued; or
 2. A development order is issued subject to the condition that the necessary facilities and services will be in place when the impacts of the development occur; or
 3. The necessary facilities are under construction at the time a development order is issued; or
 4. The necessary facilities and services are guaranteed in an enforceable development agreement that includes the provisions of section (A) (1)-(3) above. An enforceable development agreement may include, but is not limited to, development agreements pursuant to F.S. Section 163.3220, or an agreement or development order issued pursuant to F.S. Ch. 380. The agreement must guarantee that the necessary facilities and services will be in place when the impacts of the development occur.
- A. For Parks and Recreation. The concurrency requirement may be satisfied by complying with the Walton County Comprehensive Plan impact fee provision.
- B. For Roads. The concurrency requirement may be satisfied by complying with the standards above or implementation of one or more mitigation strategies as described and identified in Section 14 of the Walton County Transportation Concurrency Management System Methodology and Procedures Manual. In addition, in areas in which Walton County has committed to provide the necessary public facilities and services in accordance with its five-year schedule of capital improvements, Walton County may satisfy the concurrency requirement for roads by basing this concurrency management system upon an adequate capital improvements program and schedule which, at a minimum, include the following provisions:
1. The capital improvements element and a five-year schedule of capital improvements, in addition to meeting all of the other statutory and rule requirements, must be financially feasible. The capital improvements element and schedule of capital improvements may recognize and include transportation projects included in the first three years of the applicable adopted Florida Department of Transportation five-year work program;
 - a. The 5-year schedule of capital improvements must include:
 - i. Necessary facilities to maintain the adopted level of service standards to serve the proposed development; and
 - ii. Necessary facilities required to eliminate those portions of existing deficiencies which are a priority to be eliminated during the five-year period under the Walton County comprehensive plan's schedule of capital improvements;

- iii. A realistic, financially feasible funding system based on currently available revenue sources that must be adequate to fund the public facilities required to serve the development authorized by the development order and which public facilities are included in the five-year schedule of capital improvements;
- iv. The five-year schedule of capital improvements must include the estimated date of commencement of actual construction and the estimated date of project completion;
- v. The five-year schedule of capital improvements must demonstrate that the actual construction of the road facilities must be scheduled to commence on or before the third year of the five-year schedule of capital improvements; and

3.03.04. Strategies to Rectify Lack of Concurrency

Should a development not pass the above concurrency evaluation, several strategies may be used to rectify this, including the following:

- A. A plan amendment that lowers the adopted level of service standard for the affected facilities and/or services.
- B. A reduction in the scale or impact of the proposed development.
- C. Phasing of the proposed development.
- D. Implementation of one or more mitigation strategies as described and identified in Section 14 of Appendix C.3. (Ord. No. 2007-10, Section 1, 7-10-07)

3.04.00. APPEALS

Appeals related to determinations of concurrency shall be made pursuant to the provisions in section 1.15.09.