

## **163.3180 - Concurrency**

(1)(a) Sanitary sewer, solid waste, drainage, potable water, parks and recreation, schools, and transportation facilities, including mass transit, where applicable, 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 appropriate study and approval by the Legislature; however, any local government may extend the concurrency requirement so that it applies to additional public facilities within its jurisdiction.

(b) Local governments shall use professionally accepted techniques for measuring level of service for automobiles, bicycles, pedestrians, transit, and trucks. These techniques may be used to evaluate increased accessibility by multiple modes and reductions in vehicle miles of travel in an area or zone. The Department of Transportation shall develop methodologies to assist local governments in implementing this multimodal level-of-service analysis. The Department of Community Affairs and the Department of Transportation shall provide technical assistance to local governments in applying these methodologies.

(2)(a) 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 Health to serve new development.

(b) Consistent with the public welfare, and except as otherwise provided in this section, parks and recreation facilities to serve new development shall be in place or under actual construction no later than 1 year after issuance by the local government of a certificate of occupancy or its functional equivalent. However, the acreage for such facilities shall be dedicated or be acquired by the local government prior to issuance by the local government of a certificate of occupancy or its functional equivalent, or funds in the amount of the developer's fair share shall be committed no later than the local government's approval to commence construction.

(c) Consistent with the public welfare, and except as otherwise provided in this section, transportation facilities needed to serve new development shall be in place or under actual construction within 3 years after the local government approves a building permit or its functional equivalent that results in traffic generation.

(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. This subsection

does not limit the authority of any agency to recommend or make objections, recommendations, comments, or determinations during reviews conducted under s. 163.3184.

(4)(a) 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.

(b) The concurrency requirement as implemented in local comprehensive plans does not apply to public transit facilities. For the purposes of this paragraph, 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 maintenance or storage of aircraft. As used in this paragraph, the terms "terminals" and "transit facilities" do not include seaports or commercial or residential development constructed in conjunction with a public transit facility.

(c) The concurrency requirement, except as it relates to transportation facilities and public schools, as implemented in local government comprehensive plans, may be waived by a local government for urban infill and redevelopment areas designated pursuant to s. 163.2517 if such a waiver does not endanger public health or safety as defined by the local government in its local government comprehensive plan. The waiver shall be adopted as a plan amendment pursuant to the process set forth in s. 163.3187(3)(a). A local government may grant a concurrency exception pursuant to subsection (5) for transportation facilities located within these urban infill and redevelopment areas.

(5)(a) The Legislature finds that under limited circumstances dealing with transportation facilities, countervailing planning and public policy goals may come into conflict with the requirement that adequate public facilities and services be available concurrent with the impacts of such development. The Legislature further finds that often the unintended result of the concurrency requirement for transportation facilities is the discouragement of urban infill development and redevelopment. Such unintended results directly conflict with the goals and policies of the state comprehensive plan and the intent of this part. Therefore, exceptions from the concurrency requirement for transportation facilities may be granted as provided by this subsection.

(b) A local government may grant an exception from the concurrency requirement for transportation facilities if the proposed development is otherwise consistent with the adopted local government comprehensive plan and is a project that promotes public transportation or is located within an area designated in the comprehensive plan for:

1. Urban infill development;
2. Urban redevelopment;
3. Downtown revitalization;

4. Urban infill and redevelopment under s. 163.2517; or

5. An urban service area specifically designated as a transportation concurrency exception area which includes lands appropriate for compact, contiguous urban development, which does not exceed the amount of land needed to accommodate the projected population growth at densities consistent with the adopted comprehensive plan within the 10-year planning period, and which is served or is planned to be served with public facilities and services as provided by the capital improvements element.

(c) The Legislature also finds that developments located within urban infill, urban redevelopment, existing urban service, or downtown revitalization areas or areas designated as urban infill and redevelopment areas under s. 163.2517 which pose only special part-time demands on the transportation system should be excepted from the concurrency requirement for transportation facilities. A special part-time demand is one that does not have more than 200 scheduled events during any calendar year and does not affect the 100 highest traffic volume hours.

(d) A local government shall establish guidelines in the comprehensive plan for granting the exceptions authorized in paragraphs (b) and (c) and subsections (7) and (15) which must be consistent with and support a comprehensive strategy adopted in the plan to promote the purpose of the exceptions.

(e) The local government shall adopt into the plan and implement long-term strategies to support and fund mobility within the designated exception area, including alternative modes of transportation. The plan amendment must also demonstrate how strategies will support the purpose of the exception and how mobility within the designated exception area will be provided. In addition, the strategies must address urban design; appropriate land use mixes, including intensity and density; and network connectivity plans needed to promote urban infill, redevelopment, or downtown revitalization. The comprehensive plan amendment designating the concurrency exception area must be accompanied by data and analysis justifying the size of the area.

(f) Prior to the designation of a concurrency exception area, the state land planning agency and the Department of Transportation shall be consulted by the local government to assess the impact that the proposed exception area is expected to have on the adopted level-of-service standards established for Strategic Intermodal System facilities, as defined in s. 339.64, and roadway facilities funded in accordance with s. 339.2819. Further, the local government shall, in consultation with the state land planning agency and the Department of Transportation, develop a plan to mitigate any impacts to the Strategic Intermodal System, including, if appropriate, the development of a long-term concurrency management system pursuant to subsection (9) and s. 163.3177(3)(d). The exceptions may be available only within the specific geographic area of the jurisdiction designated in the plan. Pursuant to s. 163.3184, any affected person may challenge a plan amendment establishing these guidelines and the areas within which an exception could be granted.

(g) Transportation concurrency exception areas existing prior to July 1, 2005, must, at a minimum, meet the provisions of this section by July 1, 2006, or at the time of the comprehensive plan update pursuant to the evaluation and appraisal report, whichever occurs last.

(6) The Legislature finds that a de minimis impact is consistent with this part. A de minimis impact is an impact that would not affect more than 1 percent of the maximum volume at the adopted level of service of the affected transportation facility as determined by the local government. No impact will be de minimis if the sum of existing roadway volumes and the projected volumes from approved projects on a transportation facility would exceed 110 percent of the maximum volume at the adopted level of service of the affected transportation facility; provided however, that an impact of a single family home on an existing lot will constitute a de minimis impact on all roadways regardless of the level of the deficiency of the roadway. Further, no impact will be de minimis if it would exceed the adopted level-of-service standard of any affected designated hurricane evacuation routes. Each local government shall maintain sufficient records to ensure that the 110-percent criterion is not exceeded. Each local government shall submit annually, with its updated capital improvements element, a summary of the de minimis records. If the state land planning agency determines that the 110-percent criterion has been exceeded, the state land planning agency shall notify the local government of the exceedance and that no further de minimis exceptions for the applicable roadway may be granted until such time as the volume is reduced below the 110 percent. The local government shall provide proof of this reduction to the state land planning agency before issuing further de minimis exceptions.

(7) In order to promote infill development and redevelopment, one or more transportation concurrency management areas may be designated in a local government comprehensive plan. A transportation concurrency management area must be a compact geographic area with an existing network of roads where multiple, viable alternative travel paths or modes are available for common trips. A local government may establish an areawide level-of-service standard for such a transportation concurrency management area based upon an analysis that provides for a justification for the areawide level of service, how urban infill development or redevelopment will be promoted, and how mobility will be accomplished within the transportation concurrency management area. Prior to the designation of a concurrency management area, the Department of Transportation shall be consulted by the local government to assess the impact that the proposed concurrency management area is expected to have on the adopted level-of-service standards established for Strategic Intermodal System facilities, as defined in s. 339.64, and roadway facilities funded in accordance with s. 339.2819. Further, the local government shall, in cooperation with the Department of Transportation, develop a plan to mitigate any impacts to the Strategic Intermodal System, including, if appropriate, the development of a long-term concurrency management system pursuant to subsection (9) and s. 163.3177(3)(d). Transportation concurrency management areas existing prior to July 1, 2005, shall meet, at a minimum, the provisions of this section by July 1, 2006, or at the time of the comprehensive plan update pursuant to the evaluation and appraisal report, whichever occurs last. The state land planning agency shall amend chapter 9J-5, Florida Administrative Code, to be consistent with this subsection.

(8) When assessing the transportation impacts of proposed urban redevelopment within an established existing urban service area, 110 percent of the actual transportation impact caused by the previously existing development must be reserved for the redevelopment, even if the previously existing development has a lesser or nonexisting impact pursuant to the calculations of the local government. Redevelopment requiring less than 110 percent of the previously existing capacity shall not be prohibited due to the reduction of transportation levels of service below the adopted standards. This does not preclude the appropriate assessment of fees or accounting for the impacts within the concurrency management system and capital improvements program of the affected local government. This paragraph does not affect local government requirements for appropriate development permits.

(9)(a) Each local government may adopt as a part of its plan, long-term transportation and school concurrency management systems with a planning period of up to 10 years for specially designated districts or areas where significant backlogs exist. The plan may include interim level-of-service standards on certain facilities and shall rely on the local government's schedule of capital improvements for up to 10 years as a basis for issuing development orders that authorize commencement of construction in these designated districts or areas. The concurrency management system must be designed to correct existing deficiencies and set priorities for addressing backlogged facilities. The concurrency management system must be financially feasible and consistent with other portions of the adopted local plan, including the future land use map.

(b) If a local government has a transportation or school facility backlog for existing development which cannot be adequately addressed in a 10-year plan, the state land planning agency may allow it to develop a plan and long-term schedule of capital improvements covering up to 15 years for good and sufficient cause, based on a general comparison between that local government and all other similarly situated local jurisdictions, using the following factors:

1. The extent of the backlog.
2. For roads, whether the backlog is on local or state roads.
3. The cost of eliminating the backlog.
4. The local government's tax and other revenue-raising efforts.

(c) The local government may issue approvals to commence construction notwithstanding this section, consistent with and in areas that are subject to a long-term concurrency management system.

(d) If the local government adopts a long-term concurrency management system, it must evaluate the system periodically. At a minimum, the local government must assess its progress toward improving levels of service within the long-term concurrency management district or area in the evaluation and appraisal report and determine any changes that are necessary to accelerate progress in meeting acceptable levels of service.

(10) With regard to roadway facilities on the Strategic Intermodal System designated in accordance with ss. 339.61, 339.62, 339.63, and 339.64, the Florida Intrastate Highway System as defined in s. 338.001, and roadway facilities funded in accordance with s. 339.2819, local governments shall adopt the level-of-service standard established by the Department of Transportation by rule. For all other roads on the State Highway System, local governments shall establish an adequate level-of-service standard that need not be consistent with any level-of-service standard established by the Department of Transportation. In establishing adequate level-of-service standards for any arterial roads, or collector roads as appropriate, which traverse multiple jurisdictions, local governments shall consider compatibility with the roadway facility's adopted level-of-service standards in adjacent jurisdictions. Each local government within a county shall use a professionally accepted methodology for measuring impacts on transportation facilities for the purposes of implementing its concurrency management system. Counties are encouraged to coordinate with adjacent counties, and local governments within a county are encouraged to coordinate, for the purpose of using common methodologies for measuring impacts on transportation facilities for the purpose of implementing their concurrency management systems.

(11) In order to limit the liability of local governments, a local government may allow a landowner to proceed with development of a specific parcel of land notwithstanding a failure of the development to satisfy transportation concurrency, when all the following factors are shown to exist:

(a) The local government with jurisdiction over the property has adopted a local comprehensive plan that is in compliance.

(b) The proposed development would be consistent with the future land use designation for the specific property and with pertinent portions of the adopted local plan, as determined by the local government.

(c) The local plan includes a financially feasible capital improvements element that provides for transportation facilities adequate to serve the proposed development, and the local government has not implemented that element.

(d) The local government has provided a means by which the landowner will be assessed a fair share of the cost of providing the transportation facilities necessary to serve the proposed development.

(e) The landowner has made a binding commitment to the local government to pay the fair share of the cost of providing the transportation facilities to serve the proposed development.

(12) A development of regional impact may satisfy the transportation concurrency requirements of the local comprehensive plan, the local government's concurrency management system, and s. 380.06 by payment of a proportionate-share contribution for local and regionally significant traffic impacts, if:

- (a) The development of regional impact which, based on its location or mix of land uses, is designed to encourage pedestrian or other nonautomotive modes of transportation;
- (b) The proportionate-share contribution for local and regionally significant traffic impacts is sufficient to pay for one or more required mobility improvements that will benefit a regionally significant transportation facility;
- (c) The owner and developer of the development of regional impact pays or assures payment of the proportionate-share contribution; and
- (d) If the regionally significant transportation facility to be constructed or improved is under the maintenance authority of a governmental entity, as defined by s. 334.03(12), other than the local government with jurisdiction over the development of regional impact, the developer is required to enter into a binding and legally enforceable commitment to transfer funds to the governmental entity having maintenance authority or to otherwise assure construction or improvement of the facility.

The proportionate-share contribution may be applied to any transportation facility to satisfy the provisions of this subsection and the local comprehensive plan, but, for the purposes of this subsection, the amount of the proportionate-share contribution shall be calculated based upon the cumulative number of trips from the proposed development expected to reach roadways during the peak hour from the complete buildout of a 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 the adopted level of service, multiplied by the construction cost, at the time of developer payment, of the improvement necessary to maintain the adopted level of service. For purposes of this subsection, "construction cost" includes all associated costs of the improvement. Proportionate-share mitigation shall be limited to ensure that a development of regional impact meeting the requirements of this subsection mitigates its impact on the transportation system but is not responsible for the additional cost of reducing or eliminating backlogs. This subsection also applies to Florida Quality Developments pursuant to s. 380.061 and to detailed specific area plans implementing optional sector plans pursuant to s. 163.3245.

(13) School concurrency shall be established on a districtwide basis and shall include all public schools in the district and all portions of the district, whether located in a municipality or an unincorporated area unless exempt from the public school facilities element pursuant to s. 163.3177(12). The application of school concurrency to development shall be based upon the adopted comprehensive plan, as amended. All local governments within a county, except as provided in paragraph (f), shall adopt and transmit to the state land planning agency the necessary plan amendments, along with the interlocal agreement, for a compliance review pursuant to s. 163.3184(7) and (8). The minimum requirements for school concurrency are the following:

(a) *Public school facilities element.*--A local government shall adopt and transmit to the state land planning agency a plan or plan amendment which includes a public school facilities element which is consistent with the requirements of s. 163.3177(12) and which is determined to be in compliance as defined in s. 163.3184(1)(b). All local government public school facilities plan

elements within a county must be consistent with each other as well as the requirements of this part.

(b) *Level-of-service standards.*--The Legislature recognizes that an essential requirement for a concurrency management system is the level of service at which a public facility is expected to operate.

1. Local governments and school boards imposing school concurrency shall exercise authority in conjunction with each other to establish jointly adequate level-of-service standards, as defined in chapter 9J-5, Florida Administrative Code, necessary to implement the adopted local government comprehensive plan, based on data and analysis.

2. Public school level-of-service standards shall be included and adopted into the capital improvements element of the local comprehensive plan and shall apply districtwide to all schools of the same type. Types of schools may include elementary, middle, and high schools as well as special purpose facilities such as magnet schools.

3. Local governments and school boards shall have the option to utilize tiered level-of-service standards to allow time to achieve an adequate and desirable level of service as circumstances warrant.

(c) *Service areas.*--The Legislature recognizes that an essential requirement for a concurrency system is a designation of the area within which the level of service will be measured when an application for a residential development permit is reviewed for school concurrency purposes. This delineation is also important for purposes of determining whether the local government has a financially feasible public school capital facilities program that will provide schools which will achieve and maintain the adopted level-of-service standards.

1. In order to balance competing interests, preserve the constitutional concept of uniformity, and avoid disruption of existing educational and growth management processes, local governments are encouraged to initially apply school concurrency to development only on a districtwide basis so that a concurrency determination for a specific development will be based upon the availability of school capacity districtwide. To ensure that development is coordinated with schools having available capacity, within 5 years after adoption of school concurrency, local governments shall apply school concurrency on a less than districtwide basis, such as using school attendance zones or concurrency service areas, as provided in subparagraph 2.

2. For local governments applying school concurrency on a less than districtwide basis, such as utilizing school attendance zones or larger school concurrency service areas, local governments and school boards shall have the burden to demonstrate that the utilization of school capacity is maximized to the greatest extent possible in the comprehensive plan and amendment, taking into account transportation costs and court-approved desegregation plans, as well as other factors. In addition, in order to achieve concurrency within the service area boundaries selected by local governments and school boards, the service area boundaries, together with the standards for establishing those boundaries, shall be identified and included as supporting data and analysis for the comprehensive plan.

3. Where school capacity is available on a districtwide basis but school concurrency is applied on a less than districtwide basis in the form of concurrency service areas, if the adopted level-of-service standard cannot be met in a particular service area as applied to an application for a development permit and if the needed capacity for the particular service area is available in one or more contiguous service areas, as adopted by the local government, then the local government may not deny an application for site plan or final subdivision approval or the functional equivalent for a development or phase of a development on the basis of school concurrency, and if issued, development impacts shall be shifted to contiguous service areas with schools having available capacity.

(d) *Financial feasibility.*--The Legislature recognizes that financial feasibility is an important issue because the premise of concurrency is that the public facilities will be provided in order to achieve and maintain the adopted level-of-service standard. This part and chapter 9J-5, Florida Administrative Code, contain specific standards to determine the financial feasibility of capital programs. These standards were adopted to make concurrency more predictable and local governments more accountable.

1. A comprehensive plan amendment seeking to impose school concurrency shall contain appropriate amendments to the capital improvements element of the comprehensive plan, consistent with the requirements of s. 163.3177(3) and rule 9J-5.016, Florida Administrative Code. The capital improvements element shall set forth a financially feasible public school capital facilities program, established in conjunction with the school board, that demonstrates that the adopted level-of-service standards will be achieved and maintained.

2. Such amendments shall demonstrate that the public school capital facilities program meets all of the financial feasibility standards of this part and chapter 9J-5, Florida Administrative Code, that apply to capital programs which provide the basis for mandatory concurrency on other public facilities and services.

3. When the financial feasibility of a public school capital facilities program is evaluated by the state land planning agency for purposes of a compliance determination, the evaluation shall be based upon the service areas selected by the local governments and school board.

(e) *Availability standard.*--Consistent with the public welfare, a local government may not deny an application for site plan, final subdivision approval, or the functional equivalent for a development or phase of a development authorizing residential development for failure to achieve and maintain the level-of-service standard for public school capacity in a local school concurrency management system where adequate school facilities will be in place or under actual construction within 3 years after the issuance of final subdivision or site plan approval, or the functional equivalent. School concurrency is satisfied if the developer executes a legally binding commitment to provide mitigation proportionate to the demand for public school facilities to be created by actual development of the property, including, but not limited to, the options described in subparagraph 1. Options for proportionate-share mitigation of impacts on public school facilities must be established in the public school facilities element and the interlocal agreement pursuant to s. 163.31777.

1. Appropriate mitigation options include the contribution of land; the construction, expansion, or payment for land acquisition or construction of a public school facility; or the creation of mitigation banking based on the construction of a public school facility in exchange for the right to sell capacity credits. Such options must include execution by the applicant and the local government of a development agreement that constitutes a legally binding commitment to pay proportionate-share mitigation for the additional residential units approved by the local government in a development order and actually developed on the property, taking into account residential density allowed on the property prior to the plan amendment that increased the overall residential density. The district school board must be a party to such an agreement. As a condition of its entry into such a development agreement, the local government may require the landowner to agree to continuing renewal of the agreement upon its expiration.

2. If the education facilities plan and the public educational facilities element authorize a contribution of land; the construction, expansion, or payment for land acquisition; or the construction or expansion of a public school facility, or a portion thereof, as proportionate-share mitigation, the local government shall credit such a contribution, construction, expansion, or payment toward any other impact fee or exaction imposed by local ordinance for the same need, on a dollar-for-dollar basis at fair market value.

3. Any proportionate-share mitigation must be directed by the school board toward a school capacity improvement identified in a financially feasible 5-year district work plan that satisfies the demands created by the development in accordance with a binding developer's agreement.

4. If a development is precluded from commencing because there is inadequate classroom capacity to mitigate the impacts of the development, the development may nevertheless commence if there are accelerated facilities in an approved capital improvement element scheduled for construction in year four or later of such plan which, when built, will mitigate the proposed development, or if such accelerated facilities will be in the next annual update of the capital facilities element, the developer enters into a binding, financially guaranteed agreement with the school district to construct an accelerated facility within the first 3 years of an approved capital improvement plan, and the cost of the school facility is equal to or greater than the development's proportionate share. When the completed school facility is conveyed to the school district, the developer shall receive impact fee credits usable within the zone where the facility is constructed or any attendance zone contiguous with or adjacent to the zone where the facility is constructed.

5. This paragraph does not limit the authority of a local government to deny a development permit or its functional equivalent pursuant to its home rule regulatory powers, except as provided in this part.

(f) *Intergovernmental coordination.--*

1. When establishing concurrency requirements for public schools, a local government shall satisfy the requirements for intergovernmental coordination set forth in s. 163.3177(6)(h)1. and 2., except that a municipality is not required to be a signatory to the interlocal agreement required by ss. 163.3177(6)(h)2. and 163.3177(6), as a prerequisite for imposition of school

concurrency, and as a nonsignatory, shall not participate in the adopted local school concurrency system, if the municipality meets all of the following criteria for having no significant impact on school attendance:

- a. The municipality has issued development orders for fewer than 50 residential dwelling units during the preceding 5 years, or the municipality has generated fewer than 25 additional public school students during the preceding 5 years.
- b. The municipality has not annexed new land during the preceding 5 years in land use categories which permit residential uses that will affect school attendance rates.
- c. The municipality has no public schools located within its boundaries.
- d. At least 80 percent of the developable land within the boundaries of the municipality has been built upon.

2. A municipality which qualifies as having no significant impact on school attendance pursuant to the criteria of subparagraph 1. must review and determine at the time of its evaluation and appraisal report pursuant to s. 163.3191 whether it continues to meet the criteria pursuant to s. 163.3177(6). If the municipality determines that it no longer meets the criteria, it must adopt appropriate school concurrency goals, objectives, and policies in its plan amendments based on the evaluation and appraisal report, and enter into the existing interlocal agreement required by ss. 163.3177(6)(h)2. and 163.3177, in order to fully participate in the school concurrency system. If such a municipality fails to do so, it will be subject to the enforcement provisions of s. 163.3191.

(g) *Interlocal agreement for school concurrency.*--When establishing concurrency requirements for public schools, a local government must enter into an interlocal agreement that satisfies the requirements in ss. 163.3177(6)(h)1. and 2. and 163.3177 and the requirements of this subsection. The interlocal agreement shall acknowledge both the school board's constitutional and statutory obligations to provide a uniform system of free public schools on a countywide basis, and the land use authority of local governments, including their authority to approve or deny comprehensive plan amendments and development orders. The interlocal agreement shall be submitted to the state land planning agency by the local government as a part of the compliance review, along with the other necessary amendments to the comprehensive plan required by this part. In addition to the requirements of ss. 163.3177(6)(h) and 163.3177, the interlocal agreement shall meet the following requirements:

1. Establish the mechanisms for coordinating the development, adoption, and amendment of each local government's public school facilities element with each other and the plans of the school board to ensure a uniform districtwide school concurrency system.
2. Establish a process for the development of siting criteria which encourages the location of public schools proximate to urban residential areas to the extent possible and seeks to collocate schools with other public facilities such as parks, libraries, and community centers to the extent possible.

3. Specify uniform, districtwide level-of-service standards for public schools of the same type and the process for modifying the adopted level-of-service standards.

4. Establish a process for the preparation, amendment, and joint approval by each local government and the school board of a public school capital facilities program which is financially feasible, and a process and schedule for incorporation of the public school capital facilities program into the local government comprehensive plans on an annual basis.

5. Define the geographic application of school concurrency. If school concurrency is to be applied on a less than districtwide basis in the form of concurrency service areas, the agreement shall establish criteria and standards for the establishment and modification of school concurrency service areas. The agreement shall also establish a process and schedule for the mandatory incorporation of the school concurrency service areas and the criteria and standards for establishment of the service areas into the local government comprehensive plans. The agreement shall ensure maximum utilization of school capacity, taking into account transportation costs and court-approved desegregation plans, as well as other factors. The agreement shall also ensure the achievement and maintenance of the adopted level-of-service standards for the geographic area of application throughout the 5 years covered by the public school capital facilities plan and thereafter by adding a new fifth year during the annual update.

6. Establish a uniform districtwide procedure for implementing school concurrency which provides for:

a. The evaluation of development applications for compliance with school concurrency requirements, including information provided by the school board on affected schools, impact on levels of service, and programmed improvements for affected schools and any options to provide sufficient capacity;

b. An opportunity for the school board to review and comment on the effect of comprehensive plan amendments and rezonings on the public school facilities plan; and

c. The monitoring and evaluation of the school concurrency system.

7. Include provisions relating to amendment of the agreement.

8. A process and uniform methodology for determining proportionate-share mitigation pursuant to subparagraph (e)1.

(h) *Local government authority.*--This subsection does not limit the authority of a local government to grant or deny a development permit or its functional equivalent prior to the implementation of school concurrency.

(14) The state land planning agency shall, by October 1, 1998, adopt by rule minimum criteria for the review and determination of compliance of a public school facilities element adopted by a local government for purposes of imposition of school concurrency.

(15)(a) Multimodal transportation districts may be established under a local government comprehensive plan in areas delineated on the future land use map for which the local comprehensive plan assigns secondary priority to vehicle mobility and primary priority to assuring a safe, comfortable, and attractive pedestrian environment, with convenient interconnection to transit. Such districts must incorporate community design features that will reduce the number of automobile trips or vehicle miles of travel and will support an integrated, multimodal transportation system. Prior to the designation of multimodal transportation districts, the Department of Transportation shall be consulted by the local government to assess the impact that the proposed multimodal district area is expected to have on the adopted level-of-service standards established for Strategic Intermodal System facilities, as defined in s. 339.64, and roadway facilities funded in accordance with s. 339.2819. Further, the local government shall, in cooperation with the Department of Transportation, develop a plan to mitigate any impacts to the Strategic Intermodal System, including the development of a long-term concurrency management system pursuant to subsection (9) and s. 163.3177(3)(d). Multimodal transportation districts existing prior to July 1, 2005, shall meet, at a minimum, the provisions of this section by July 1, 2006, or at the time of the comprehensive plan update pursuant to the evaluation and appraisal report, whichever occurs last.

(b) Community design elements of such a district include: a complementary mix and range of land uses, including educational, recreational, and cultural uses; interconnected networks of streets designed to encourage walking and bicycling, with traffic-calming where desirable; appropriate densities and intensities of use within walking distance of transit stops; daily activities within walking distance of residences, allowing independence to persons who do not drive; public uses, streets, and squares that are safe, comfortable, and attractive for the pedestrian, with adjoining buildings open to the street and with parking not interfering with pedestrian, transit, automobile, and truck travel modes.

(c) Local governments may establish multimodal level-of-service standards that rely primarily on nonvehicular modes of transportation within the district, when justified by an analysis demonstrating that the existing and planned community design will provide an adequate level of mobility within the district based upon professionally accepted multimodal level-of-service methodologies. The analysis must also demonstrate that the capital improvements required to promote community design are financially feasible over the development or redevelopment timeframe for the district and that community design features within the district provide convenient interconnection for a multimodal transportation system. Local governments may issue development permits in reliance upon all planned community design capital improvements that are financially feasible over the development or redevelopment timeframe for the district, without regard to the period of time between development or redevelopment and the scheduled construction of the capital improvements. A determination of financial feasibility shall be based upon currently available funding or funding sources that could reasonably be expected to become available over the planning period.

(d) Local governments may reduce impact fees or local access fees for development within multimodal transportation districts based on the reduction of vehicle trips per household or vehicle miles of travel expected from the development pattern planned for the district.

(e) By December 1, 2007, the Department of Transportation, in consultation with the state land planning agency and interested local governments, may designate a study area for conducting a pilot project to determine the benefits of and barriers to establishing a regional multimodal transportation concurrency district that extends over more than one local government jurisdiction. If designated:

1. The study area must be in a county that has a population of at least 1,000 persons per square mile, be within an urban service area, and have the consent of the local governments within the study area. The Department of Transportation and the state land planning agency shall provide technical assistance.

2. The local governments within the study area and the Department of Transportation, in consultation with the state land planning agency, shall cooperatively create a multimodal transportation plan that meets the requirements of this section. The multimodal transportation plan must include viable local funding options and incorporate community design features, including a range of mixed land uses and densities and intensities, which will reduce the number of automobile trips or vehicle miles of travel while supporting an integrated, multimodal transportation system.

3. To effectuate the multimodal transportation concurrency district, participating local governments may adopt appropriate comprehensive plan amendments.

4. The Department of Transportation, in consultation with the state land planning agency, shall submit a report by March 1, 2009, to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the status of the pilot project. The report must identify any factors that support or limit the creation and success of a regional multimodal transportation district including intergovernmental coordination.

(16) It is the intent of the Legislature to provide a method by which the impacts of development on transportation facilities can be mitigated by the cooperative efforts of the public and private sectors. The methodology used to calculate proportionate fair-share mitigation under this section shall be as provided for in subsection (12).

(a) By December 1, 2006, each local government shall adopt by ordinance a methodology for assessing proportionate fair-share mitigation options. By December 1, 2005, the Department of Transportation shall develop a model transportation concurrency management ordinance with methodologies for assessing proportionate fair-share mitigation options.

(b)1. In its transportation concurrency management system, a local government shall, by December 1, 2006, include methodologies that will be applied to calculate proportionate fair-share mitigation. A developer may choose to satisfy all transportation concurrency requirements by contributing or paying proportionate fair-share mitigation if transportation facilities or facility segments identified as mitigation for traffic impacts are specifically identified for funding in the 5-year schedule of capital improvements in the capital improvements element of the local plan or the long-term concurrency management system or if such contributions or payments to such facilities or segments are reflected in the 5-year schedule of capital improvements in the next

regularly scheduled update of the capital improvements element. Updates to the 5-year capital improvements element which reflect proportionate fair-share contributions may not be found not in compliance based on ss. 163.3164(32) and 163.3177(3) if additional contributions, payments or funding sources are reasonably anticipated during a period not to exceed 10 years to fully mitigate impacts on the transportation facilities.

2. Proportionate fair-share mitigation shall be applied as a credit against impact fees to the extent that all or a portion of the proportionate fair-share mitigation is used to address the same capital infrastructure improvements contemplated by the local government's impact fee ordinance.

(c) Proportionate fair-share mitigation includes, without limitation, separately or collectively, private funds, contributions of land, and construction and contribution of facilities and may include public funds as determined by the local government. Proportionate fair-share mitigation may be directed toward one or more specific transportation improvements reasonably related to the mobility demands created by the development and such improvements may address one or more modes of travel. The fair market value of the proportionate fair-share mitigation shall not differ based on the form of mitigation. A local government may not require a development to pay more than its proportionate fair-share contribution regardless of the method of mitigation. Proportionate fair-share mitigation shall be limited to ensure that a development meeting the requirements of this section mitigates its impact on the transportation system but is not responsible for the additional cost of reducing or eliminating backlogs.

(d) This subsection does not require a local government to approve a development that is not otherwise qualified for approval pursuant to the applicable local comprehensive plan and land development regulations.

(e) Mitigation for development impacts to facilities on the Strategic Intermodal System made pursuant to this subsection requires the concurrence of the Department of Transportation.

(f) If the funds in an adopted 5-year capital improvements element are insufficient to fully fund construction of a transportation improvement required by the local government's concurrency management system, a local government and a developer may still enter into a binding proportionate-share agreement authorizing the developer to construct that amount of development on which the proportionate share is calculated if the proportionate-share amount in such agreement is sufficient to pay for one or more improvements which will, in the opinion of the governmental entity or entities maintaining the transportation facilities, significantly benefit the impacted transportation system. The improvements funded by the proportionate-share component must be adopted into the 5-year capital improvements schedule of the comprehensive plan at the next annual capital improvements element update. The funding of any improvements that significantly benefit the impacted transportation system satisfies concurrency requirements as a mitigation of the development's impact upon the overall transportation system even if there remains a failure of concurrency on other impacted facilities.

(g) Except as provided in subparagraph (b)1., this section may not prohibit the Department of Community Affairs from finding other portions of the capital improvements element amendments not in compliance as provided in this chapter.

(h) The provisions of this subsection do not apply to a development of regional impact satisfying the requirements of subsection (12).

(17) A local government and the developer of affordable workforce housing units developed in accordance with s. 380.06(19) or s. 380.0651(3) may identify an employment center or centers in close proximity to the affordable workforce housing units. If at least 50 percent of the units are occupied by an employee or employees of an identified employment center or centers, all of the affordable workforce housing units are exempt from transportation concurrency requirements, and the local government may not reduce any transportation trip-generation entitlements of an approved development-of-regional-impact development order. As used in this subsection, the term "close proximity" means 5 miles from the nearest point of the development of regional impact to the nearest point of the employment center, and the term "employment center" means a place of employment that employs at least 25 or more full-time employees.