

# IMPLEMENTATION ELEMENT

- Introduction
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- Exhibits



# IMPLEMENTATION



**Seminole  
County  
Comprehensive  
Plan  
Element**

### IMPLEMENTATION ELEMENT INTRODUCTION

The Implementation Element is an optional element of the Seminole County Comprehensive Plan not required by Florida Statutes. The Implementation Element provides direction to accomplish specific actions related to Plan programs, regulations, development policies, and coordination, including:

- A State mandated Evaluation and Appraisal Report of the Comprehensive Plan;
- B Annual updates to the Capital Improvements Element;
- C Amendments to the Land Development Code;
- D Future Land Use amendments;
- E A process for interpreting Future Land Use district boundaries;
- F A process for public participation; and
- G Administration of Concurrency Management and Mobility Strategy Systems.

The Comprehensive Plan includes the following statutorily required and optional Elements:

- |                                  |                             |
|----------------------------------|-----------------------------|
| • Capital Improvements           | • Introduction (optional)   |
| • Conservation                   | • Potable Water             |
| • Drainage                       | • Public School Facilities  |
| • Future Land Use                | • Recreation and Open Space |
| • Housing                        | • Sanitary Sewer            |
| • Implementation (optional)      | • Solid Waste               |
| • Intergovernmental Coordination | • Transportation            |

Seminole County adopted its first Comprehensive Plan to fully meet Rule 9J-5, Florida Administrative Code requirements on September 11, 1991. As part of the early efforts to implement the plan, in 1992, the County identified nonconforming uses and zonings and conflicting zonings. The County made every effort to bring these uses/zonings into compliance with the adopted Comprehensive Plan. The County conducted an extensive search on all unincorporated lots and parcels to identify nonconforming uses and zonings and conflicting zonings. The Board of County Commissioners subsequently held advertised public hearings in 1992 (and again in 2008) to remedy these nonconformities and conflicts in accordance with the recommendations of the Comprehensive Plan. The Implementation Element includes processes for resolving, when identified, any nonconforming uses and rezonings, or conflicting zonings.

As part of the adoption of the 2008 Plan, the County evaluated the need for any amendments pertaining to updating data and dates, rules of grammar, and formatting. As a result, the reader will find the Plan more accessible and understandable than previous Plan updates. As a supplement to the Plan, during 2011, the County is creating a "Reader's Guide" to direct readers to particular Plan sections and to make the Plan more "user friendly". In 2003, the County adopted a resolution authorizing conversion of the County's Future Land Use Maps to digitalized format from the traditional paper format. The County adopted amendments to the Implementation Element in 2004 to reflect the change from paper to digital mapping for both the County's Future Land Use Maps and Zoning Maps. This Element also includes processes

for a Concurrency Management System and describes how public participation is addressed above and beyond the statutory requirements. This Element also provides direction regarding preparation of Evaluation and Appraisal Reports, annual Capital Improvement Element Updates, Land Development Code amendments, and Future Land Use amendments.

## **ACTIONS**

The Plan is implemented through four major categories of action:

### **Plan Programs**

Plan policies address the continuation, expansion and initiation of new government service and facility programs, including, but not limited to, capital facility construction.

### **Regulations**

Continued enforcement of existing regulations, revising existing regulations and creating new land development regulations for managing growth, providing adequate levels of service, and protecting the environment.

### **Development Policies**

Adoption and implementation of criteria and performance frameworks that guide when, where and how development is to occur. These policies are contained in the Future Land Use Element and other Plan Elements.

### **Coordination**

The Plan includes policies in the Intergovernmental Coordination Element and in other Elements that explain how and to what extent the County will coordinate with other local, regional, State, and Federal agencies.

The County achieves progress toward meeting the goals, objectives and policies through various implementation programs. An explanation of these implementation programs follows.

- A Evaluation and Appraisal Reports
- B Annual Capital Improvements Element Updates
- C Comprehensive Plan Updates
- D Land Development Code Updates
- E Future Land Use Map Amendments
- F Interpretation of Future Land Use Designation Boundaries
- G Nonconforming Uses, Nonconforming Zonings, and Conflicting Zonings
- H Public Participation
- I Concurrency Management System and Mobility Strategy
- J Special Studies

### **EVALUATION AND APPRAISAL**

Local governments in Florida must complete an Evaluation and Appraisal of its local comprehensive plan every seven years, as required by, Chapter 163, Part II, Florida Statutes. Requirements for the Evaluation and Appraisal process were revised with the enactment of Chapter 2011-139, Laws of Florida (House Bill 7207) to include:

- (1) At least once every seven years, each local government shall evaluate its comprehensive plan to determine if plan amendments are necessary to reflect changes in State Law since the last update of the comprehensive plan, and notify the State Land Planning Agency by letter of the results of that evaluation.
- (2) If the local government determines amendments to its comprehensive plan are necessary to reflect changes in state requirements, the local government shall prepare and transmit the plan amendment or amendments to the state for review within one year.
- (3) Local governments are encouraged to evaluate and, as necessary, update comprehensive plans to reflect changes in local conditions.
- (4) If the local government fails to submit its letter or to update its plan when it has notified the State Land Planning Agency of a need for updating, it may not amend its comprehensive plan until it complies with these requirements.

Seminole County is required to provide a letter notifying the State of the need for amendments to comply with changes in State Law on or before December 1, 2015.

### **ANNUAL CAPITAL IMPROVEMENTS ELEMENT UPDATES**

The Capital Improvements Element is an important implementation tool for a comprehensive plan, because it identifies the need for public facilities to support the desired Future Land Use pattern of a community.

Level of service standards for facilities remains a requirement for the Capital Improvements Element, as they were prior to enactment of Chapter 2011-139, Laws of Florida. The changes to State Law contained in Chapter 2011-139, Laws of Florida, allow local governments to rescind concurrency requirements for parks and recreation, transportation, and public schools. Local governments that elect to rescind those concurrency requirements are still responsible for capital improvements for multimodal transportation facilities and parks and recreation. Due to that responsibility, nonconcurrency level of service for transportation and parks and recreation are still required in the Capital Improvements Element to guide capital planning. Also included are the cost of facilities, revenue sources, and a schedule for funding and construction of improvements for a five year period. Projects necessary to ensure that adopted levels of service are achieved and maintained for a five-year period are to be identified as funded or unfunded, and unfunded projects given a level of priority for funding. An annual review and update of this Element and the Schedule of Capital Improvements is coordinated with the County's annual budget process.

### **COMPREHENSIVE PLAN UPDATES AND AMENDMENT ADOPTION PROCESSES**

Major updates to the County's Comprehensive Plan are needed from time to time to implement overall goals, objectives, policies and community visions. Updates may result from recommendations or findings of an Evaluation and Appraisal. The County may also administratively initiate amendments associated with changes in state law or changes in County needs, conditions, economic development efforts, redevelopment and growth trends.

Future Land Use Map amendments (with and without associated text amendments) may also be adopted in response to applications submitted by property owners. All applicants



requesting Future Land Use Map amendments must submit data and analysis demonstrating that the proposed amendment is consistent with the Goals, Objectives and Policies of the Seminole County Comprehensive Plan and will not create an internal inconsistency within the Plan that violates State Law. Minimum documentation must be provided by an applicant submitting a proposed amendment to the Future Land Use Map, including:

- A. Data and analysis verifying that the proposed land use change will not require a change in the adopted level of service for potable water, sanitary sewer service or drainage for either Seminole County or another provider that serves the site; that projects contained within the capital budget of a non-Seminole County service provider, or the adopted Capital Improvements Element of the Seminole County Comprehensive Plan, will ensure that the level of service will not be reduced by the proposed amendment and that service could be available upon demand.
- B. Data and analysis verifying that the proposed land use change will not require a change in the adopted level of service for solid waste, or that projects contained within the adopted Capital Improvements Element of the Seminole County Comprehensive Plan will ensure that the Level of Service will not be reduced by the proposed amendment and that service could be available upon demand.
- C. Data and analysis verifying that the proposed land use change is supportive of the County's Multimodal Mobility Strategy.
- D. For amendments proposed within the Environmentally Sensitive Lands Overlay (ESLO), the Wekiva River Protection Area, the Wekiva Study Area, the Econlockhatchee River Protection Area or the East Rural Area, documentation of how the amendment supports and is consistent with the Goals, Objectives and Policies of these areas.

Large scale amendments (regular amendments) are defined by state law as all text amendments that are not directly connected to a map amendment, and Future Land Use Map amendments affecting more than 10 acres of land. Small scale amendments are generally those Future Land Use Map amendments that affect 10 acres or fewer and, and, if any text change is proposed, in compliance with state statute, the change must relate directly to, and be adopted simultaneously with, the map amendment. Such a text change cannot change the goals, policies and objectives of the comprehensive plan, even if such change may be necessary for the adoption of the small scale amendment. However, a local government is not required to treat an amendment as a small scale amendment if potential impacts might affect an area greater than the immediate neighborhood.

## **Adoption Process for Comprehensive Plan Amendments**

### **Small Scale Amendments**

The steps for adoption of small scale amendments include: public notification, public hearing before the Planning and Zoning Commission (acting as Local Land Planning Agency) and an adoption hearing before the Board of County Commissioners, as required by Florida Statutes. If the amendment is adopted, a required summary report (including staff findings, minutes of the hearings, adopting ordinance and revised Future Land Use map exhibits) is provided for informational purposes to the State Land Planning Agency and the East Central Florida Regional Planning Council. Small scale amendments are not reviewed for compliance by the State Land Planning Agency.

Any affected party who wants to challenge a small scale amendment may file a petition with the Division of Administrative Hearings. The petition should comply with requirements of Sections 120.569 and 120.57, Florida Statutes. The petition should request a hearing to challenge the compliance of a small scale development amendment with Chapter 163, Florida

Statutes, within 30 days following Seminole County's adoption of the amendment. The affected party shall serve a copy of the petition on Seminole County and furnish a copy to the State Land Planning Agency.

### **Large Scale (Regular) Amendment Adoption**

Prior to the changes in state law contained in Chapter 2011-139, Laws of Florida, local governments were limited to biannual 'cycles' of large scale (regular) comprehensive plan amendments.

Changes to state law in 2011 eliminated the twice-yearly maximum number of large scale 'cycles' of amendments and introduced an expedited state review process that can be used for the majority of amendments requested by private property owners and certain amendments initiated by local governments (administrative amendments).

The expedited process cannot be used for large scale amendments resulting from an Evaluation and Appraisal, a new plan for a newly incorporated city, a proposed sector plan, a proposed rural stewardship, or an amendment in an area of critical state concern.

The process for the expedited review is briefly summarized below. Information is also available on the County's website, at the County's Planning and Development Division, and on the website of the State Land Planning Agency.

### **EXPEDITED COMPREHENSIVE PLAN AMENDMENT PROCESS**

- P & Z Commission holds a public hearing after required public notice.
- County Commission holds a transmittal public hearing after required public notice.
- County transmits amendments to State Land Planning Agency and state reviewing agencies after transmittal public hearing.
- All reviewing agencies send comments to County.
- County has 180 days to hold public hearing to adopt amendments after receiving state comments (otherwise, amendments are considered withdrawn unless extended by agreement with State Land Planning Agency and any affected person commenting).
- If adopted, County transmits amendments back to State Land Planning agency and any reviewing agency that commented.
- State Land Planning Agency notifies County if submittal is complete or incomplete
- If complete, State Land Planning Agency reviews adopted amendment.
- If the amendment is not challenged, it becomes effective 31 days after the State Land Planning Agency notifies the County that the submittal is complete.

### **ADOPTION PROCESS FOR REMAINING LARGE SCALE AMENDMENTS: THE STATE COORDINATED REVIEW PROCESS**

This process is used for large scale amendments resulting from an Evaluation and Appraisal, a new plan for a newly incorporated city, a proposed sector plan, a proposed rural stewardship or an amendment in an area of critical state concern. For Seminole County, this process will most likely be used primarily for amendments resulting from an Evaluation and Appraisal.

The State Coordinated Review Process is summarized on the website of the State Land Planning Agency.



### LAND DEVELOPMENT CODE UPDATES

A Land Development Code is an important implementation tool for a comprehensive plan because it provides the regulations that carry out Plan policies. Major updates to the County's Land Development Code (LDC) may result from findings of an Evaluation and Appraisal, amendments to or policies of the Comprehensive Plan itself, new state legislation, special studies to encourage economic development and redevelopment, county participation in regional visions and projects (such as the SunRail commuter rail), or the need to revise standards, procedures, or minimum requirements that protect the health, safety, and general welfare of the citizens of Seminole County.

### INTERPRETATION OF FUTURE LAND USE DESIGNATION BOUNDARIES

Future Land Use designation boundaries are another important implementation tool. In 2003, the County adopted a resolution authorizing conversion of the County's Future Land Use Maps to digitalized format from the historical paper format. The Seminole County Property Appraiser's web site is the recommended source for viewing future land use designations. The Property Appraiser's digitized map is parcel-based, unlike the Future Land Use Map published in the Comprehensive Plan, which is a generalized representation.

Except as otherwise specifically provided, the future land use designation symbol, or name shown within boundaries on the Future Land Use Map, indicates that the future land use designation extends through the whole area surrounded by the boundary line. Where uncertainty exists as to the boundaries of any future land use designation depicted on the Future Land Use Map, the Director of the Development Services Department or the Director's designee shall follow the policies contained herein.

- A Where boundaries are so indicated that they are approximately parallel to the center lines or street lines of streets, or to the central lines of alley lines or alleys, or the center lines of right-of-way lines of highways, such boundaries shall be construed as being parallel thereto and boundaries shall be determined by use of appropriate GIS tool(s) upon the Future Land Use Map.
- B When adjustments are required (demonstrating, by survey or by updates to wetland boundaries from the St Johns River Water Management District and/or updates to flood prone boundaries by the Federal Emergency Management Agency, that certain properties are neither a wetland nor a flood prone area) the future land use designation of that property shall not be subject to the requirements of the Environmentally Sensitive Lands Overlay as shown in the Future Land Use Map. These adjustments shall include areas where mitigation or other regulatory devices that offset impacts allow encroachment into a wetland system or the 100-year floodplain.

### NONCONFORMING USES, NONCONFORMING ZONINGS, AND CONFLICTING ZONINGS

After adoption of the 1991 Comprehensive Plan, the County made every attempt to identify parcels in unincorporated Seminole County with a nonconforming land use or zoning or parcels with conflicting zonings in order to bring these parcels into conformity with the newly adopted Comprehensive Plan. The following guidelines provide direction for reduction of nonconforming uses, nonconforming zonings and the elimination of conflicting zonings identified in the future

#### Reduction of Nonconforming Uses

A nonconforming use is defined as any existing use of a lot or parcel of land, at the time of adoption of the Comprehensive Plan, which does not conform to the requirements of the

future land use designation depicted on the Future Land Use Map, and as fully set forth in the provisions of the Plan relating to that particular future land use designation. An existing commercial establishment located on a lot or parcel, which is assigned a residential future land use designation, is an example of a nonconforming land use. The existing zoning classification on these properties may or may not be consistent with the existing use of the lot or parcel.

The County shall reduce nonconforming uses through the following procedures:

- A Identify the lot or parcel on the Future Land Use Map and Zoning Map where a nonconforming use exists.
- B Notify the property owner(s) that the existing use of the property does not conform to the future land use designation assigned to the property and that any expansion of the existing use is not permitted. Notification shall also state that should the existing use cease for a period of over 180 days, the County will notify owner(s) that the County will initiate administrative procedures, which could result in rezoning of the property to an appropriate zoning classification, and may also include an amendment to the future land use designation to ensure consistency between the future land use, zoning and use of the lot/parcel.

To determine whether an existing property use has terminated for 180 days or more, a procedure should be established by the Planning Division in conjunction with the Building Department and the Tax Collector's Occupational License Department to identify nonconforming use parcels when applications for building permits, rezonings, special exceptions, occupational licenses and similar permits or approvals are filed:

- A Upon submitting an application for a rezoning, building permit, special exception, occupational license or similar permit or approval, the County will inform the applicant/property owner(s) of the nonconforming use and direct the applicant/property owner(s) to contact the Planning Division.
- B The Planning Division will explain nonconforming uses and the procedures for establishing consistency with the County's Comprehensive Plan. The Planning Division will assist the applicant/property owner(s) as much as possible, but will not give legal advice or serve as advisor or counsel to the applicant/property owner(s).
- C For those requests where it is determined that the nonconforming use has been discontinued for 180 days, the property owner(s) must submit evidence to demonstrate that the use has not been discontinued for such time. The property owner(s) may use tax receipts, occupational licenses, adjacent property owner testimony, affidavit, etc., to support the applicant/property owner(s) case as evidence. If the applicant/property owner(s) is unable to demonstrate a continued use, the County may deny the application and the applicant advised to contact the Planning Division for instructions regarding the proper method for establishing consistency with the Comprehensive Plan. Alternatives then available to the applicant/property owner(s) are:
  - 1) File applications (waiver of fees is normally recommended) for an amendment to the Comprehensive Plan and rezoning to a future land use designation and zoning consistent with the existing use of the property; or
  - 2) If the applicant/property owner(s) fails to act within 90 days from the time the County notifies the owner(s) of the nonconformity, the Planning Division will initiate administrative procedures to resolve the conflict (where the lot or parcel is assigned a conflicting zoning classification).





### **Elimination of Conflicting Zonings**

A conflicting zoning exists where a lot or parcel of land is assigned an existing zoning classification which is more intense than the future land use designation assigned to the lot or parcel. An existing C-2 (Retail Commercial District) zoning classification within a Low Density Residential future land use designation is an example of a conflicting zoning.

The County shall eliminate conflicting zonings through the following procedures:

- A Identify the lot or parcel on the Future Land Use Map and Zoning Map where a conflicting zoning exists.
- B Administer the following procedures for establishing consistency:
  - 1) Notify the property owner(s) of the existing zoning conflict. In conjunction with the next available Plan amendment cycle, the property owner(s) may request a review of the future land use designation assigned to the lot or parcel and present evidence regarding the appropriateness of the existing zoning classification. The property owner(s) may file an application to amend the future land use designation and/or zoning classification (waiver of associated fees is normally recommended). The property owner(s) must file any requests in writing with the County to maintain the existing zoning classification. The County will schedule public hearings in the manner as with a request for future land use amendment and rezoning. The Board of County Commissioners, at a public hearing, may either:
    - a) Find the existing zoning classification appropriate and adopt a compatible future land use designation; or
    - b) Find the existing zoning classification inappropriate and adopt a zoning classification compatible with the future land use designation; or
    - c) Find the existing future land use designation and zoning classification inappropriate and adopt a future land use designation and zoning classification compatible with surrounding uses.

### **Reduction of Nonconforming Zonings**

Nonconforming zonings exist where a lot or parcel of land is assigned a zoning classification that is less intense than the future land use designation assigned to the lot or parcel and the zoning classification does not result in compatibility conflicts with surrounding land uses. An existing lot or parcel with an R-1A (Single-Family Dwelling District) zoning classification, within an existing Office future land use designation, is an example of a nonconforming zoning. Nonconforming zonings may continue until the lot or parcel is developed and/or redeveloped, at which time the lot or parcel must be rezoned to an allowable and compatible zoning classification within the existing future land use designation. These lots and/or parcels do not reflect an inconsistency between the Comprehensive Plan and the County's land development regulations.

The County shall reduce nonconforming zonings through the following procedure:

- A Identify the lot or parcel on the Future Land Use Map and Zoning Map where a nonconforming zoning exists.
- B Administer the following procedures for establishing consistency:
  - 1) Lots or parcels where the zoning classification assigned to the lot or parcel is less intense than the future land use designation assigned to the lot or parcel, development/redevelopment of the lot or parcel under its current zoning classification shall not be permitted.

- 2) Lots or parcels assigned the Higher Intensity Planned Development, or any other nonresidential future land use designation with an existing A-1 (Agriculture) zoning classification, are entitled to a building permit for a single family residence consistent with requirements of the A-1 (Agriculture) zoning classification. However, these lots or parcels cannot be subdivided for developed as single-family, detached residential uses.
- 3) Lots or parcels may be brought into conformity with the Comprehensive Plan through property owner initiated rezonings or administrative rezonings to an allowable and compatible zoning classification prior to site development/redevelopment.
- 4) Lots or parcels within the Suburban Estates future land use designation where the existing zoning classification and use is for mobile homes under the RM-1 or RM-2 (Single Family Mobile Home Residential and Single Family Mobile Home Park Districts) zoning classifications will be designated in the Comprehensive Plan as nonconforming zonings and the existing use and zoning classification will be permitted to continue until the existing use is discontinued or abandoned. These lots or parcels cannot be developed or redeveloped under the existing zoning classification to expand or maintain an incompatible use. Although technically a nonconforming zoning, the existing use will be considered consistent with the Comprehensive Plan inasmuch as the current property owner/user has a potentially vested property right in continuing the existing use of the property as limited herein and subject to divestiture.

### PUBLIC PARTICIPATION

#### **Purpose**

Since the early 1970's, Seminole County has engaged in an active comprehensive planning process, which has involved diverse individuals and groups. The County's early involvement in comprehensive planning has resulted in a citizenry with a great deal of knowledge and valuable input with regard to planning issues. The purpose of these provisions is to continue to encourage public participation in the comprehensive planning process as well as related processes, and further the provisions of Section 163.3181, Florida Statutes, and Chapter 9J-5.004, Florida Administrative Code.

#### **Openness**

It shall be the policy of Seminole County to ensure that all comprehensive planning and related matters occur in an open forum with public access and involvement. The County shall continue to rely upon appointed committees of Seminole County citizens as well as those involved in the affairs of the County to study various issues and make reports and recommendations to the County's Land Planning Agency and Board of County Commissioners.

It shall be the policy of the County to ensure that all comprehensive planning and related documents, reports, studies, agendas, minutes, etc., are made readily available to the public pursuant to Chapter 119, Florida Statutes (FS), as well as other applicable laws. The County shall also ensure that all meetings are open to the public consistent with the provisions of Chapters 119, 125 and 286, FS, as well as other applicable law. The Planning and Development Division shall maintain support documents containing background data, studies, surveys, economic assumptions, reports, analysis, inventory maps, and other documents used in the formulation of the Comprehensive Plan, but are not adopted as part of the Plan. The County shall maintain these documents as official public records available to the public for inspection. Copies of all public notices, proceedings of public hearings, written comments, objections and responses thereto, are supplementary materials to the Comprehensive Plan. The Planning Division shall keep supplementary materials with the adopted Comprehensive



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Plan as permanent public records and public documents; however, these materials shall not have any legal effect under the provisions of Section 163.3194, FS.

The Seminole County Planning and Development Division staff, as well as all other appropriate Seminole County personnel, shall be reasonably available to answer inquiries and provide information to the public relating to comprehensive planning and related matters, as reasonably requested. The County shall make every effort to use graphic and textual materials that are easily understandable in order that the public can be effectively apprised as to the proposed actions and current provisions relating to comprehensive planning and related processes. In addition, the County shall maintain an internet website that includes, but is not limited to, the Comprehensive Plan, Plan amendment schedules and applications, forms and processes, adopted ordinances, and ongoing planning activities. It shall be the policy of Seminole County to advertise and hold public hearings as required by State law (including but not limited to applicable Sections of Part II, Chapter 163 and Chapter 125.66, Florida Statutes). The County shall continue the practice of publishing additional advertisements, which are not legally required, when it is determined by the Planning and Development Manager that such additional advertisements would likely enhance public participation or otherwise significantly benefit the public. The applicant shall be responsible for all advertising costs associated with a Plan amendment application.

It shall be the policy of the County to post a notice of all public hearings, meetings or workshops of all boards, commissions, committees, etc., in the first floor lobby of the north and west wings of the Seminole County Services Building. The Board of County Commissioners or County Manager may direct postings at other locations. It shall also be the policy of the County to provide such notices by mail to any citizen or group who requests to be on a mailing list. Notices shall contain, at a minimum, the date, time, place and general subject matter of the meeting. Failure to mail or post such notices shall not affect the validity of any actions taken at a public hearing, meeting or workshop, unless otherwise provided by law.

The County shall continue its policy of providing members of the news media with copies of agendas, notices, documents, etc. The County shall also continue its policy of providing news media personnel with the opportunity to report on the County's public business relating to comprehensive planning activities. The County may provide press releases to the media periodically throughout the Comprehensive Plan amendment process and related processes to encourage the participation of the media in disseminating information relating to the Comprehensive Plan and related matters. The County shall continue its policy of incorporating citizens groups and organizations into the comprehensive planning and related processes. These groups may include, but are not limited to, chambers of commerce, non-partisan voters associations, professional associations, homeowners associations and environmental groups.

To the maximum extent practicable, the County shall advise the general public of comprehensive planning activities and related activities by means of mailouts to groups and citizens who request to be on a mailing list. Typical features of a mailout would be a progress report on the activities relating to an amendment of the Comprehensive Plan; announcement of public workshops or hearings; listings of planning documents available for public review; and planning items of interest to the general public. As a general rule, the County will require 14 days advance notice, in writing, prior to an individual or group being placed on a mailing or distribution list.

During major Comprehensive Plan updates and during the Evaluation and Appraisal Report process, the County shall make available planning documents and reports at Seminole County public libraries, the County's Internet website, and other public places located throughout the County.

It shall also be the policy of Seminole County to post all Land Planning Agency and Board of County Commissioners public hearing agendas on the County's Internet website. In addition, the County shall post staff reports relating to amendments to this Plan on the County's website.

All records and documents relating to comprehensive planning and related processes shall be public records and copies shall be available to the public in accordance with the provisions of Chapter 119, Florida Statutes.

### **Public Comment**

It shall be the policy of the County to encourage and accept oral/written public input at all public hearings. Oral/written public input may be acceptable at workshops and meetings, if appropriate under the circumstances, or by County policy. It shall be the policy of the County to encourage and accept oral/written comments during the course of the comprehensive planning and related processes. Advertisements and other public notices, if required for public hearings, meetings or workshops, shall announce that oral/written comments are acceptable. The County may place time deadlines for submission of written comments. The County shall submit all public input (e.g., written comments, photographs, charts, maps, letter, petitions, etc.) to the public record.

### **Public Hearing Procedures for Amendments to the Seminole County Comprehensive Plan**

The conduct of public hearings regarding amendments to the Seminole County Comprehensive Plan, including text amendments, large scale (regular) and small scale future land use map amendments, shall ensure that actions are clear to the general public and encourage full public participation. Public hearings shall be consistent with the Public Participation Section of the Seminole County Comprehensive Plan and with applicable procedures established by State law. In addition, the County shall ensure that persons attending public hearings are provided the opportunity to request an information statement from the State's land planning agency's regarding large scale amendments to the Seminole County Comprehensive Plan, as provided for in Section 163.3184(15)(c), Florida Statutes.

The Chairman of the Seminole County Land Planning Agency/Planning and Zoning Commission and Chairman of the Board of County Commissioners (BCC) shall announce public hearing procedures prior to the beginning of public hearings. Public hearing procedures shall include, at a minimum, a presentation of staff recommendations, applicant presentation, public participation, rebuttal, deliberation by the BCC, if any, questions by the BCC, and vote on the amendment(s) by the BCC. These procedures shall facilitate orderly review, discussion, and consideration of amendments to the Seminole County Comprehensive Plan. The comprehensive planning process in Seminole County is a legislative process.

The public is encouraged to be familiar with these procedures as well as any other procedures as adopted by the County.

Boards and commissions shall, insofar as practical, retain as part of the public hearing record each item of physical or documentary evidence presented at the public hearing and shall have the item marked to show the identity of the person offering the evidence and whether the evidence was presented on behalf of a proponent or opponent. The County shall retain exhibits received into evidence as public records. Evidence in the form of reports or other written documents should be submitted in advance of the public hearing as with other written comments in order to provide the board, or commission, and County staff and the public sufficient time to review the material. It shall be the burden of parties who desire to appeal decisions made at public hearing to provide a record and for such purpose, may need to





ensure that a verbatim record of the proceedings is made. Such record shall include the testimony and evidence upon which the appeal is based (Section 286.0105, Florida Statutes).

### **Notice to Property Owners**

The County may provide notice by U.S. mail to all known owners of property within a 300 foot radius from the property under consideration at a public hearing. The County shall use the latest ad valorem tax records in the Seminole County Property Appraiser's Office in compiling a list of property owners. Only one notice per property owner will be sent, which notice shall outline the planned hearing dates. It shall be the obligation of the property owner to be aware of continuances and hearing date changes. The County will announce future public hearing dates, if any, regarding the matter under consideration at the public hearing.

The applicant is responsible for all fees for public notices required by this section. Notice of public hearings shall be given sufficiently in advance to provide adequate notice and shall contain, at a minimum, the following information:

- A The date, time and location of the public hearing.
- B A description sufficient to inform an interested party of the location of the property for which a Plan amendment, development order or other action is pending, including, but not limited to, one of the following: a map, a street address, a subdivision lot and block designation or the tax map (parcel identification number) designation of the County Property Appraiser.
- C The substance or nature of the matter under consideration.

The County shall make every effort to comply with these notice requirements. Actions by boards or commissions shall not be invalidated solely because a property owner does not receive notice of the pending action if a good faith attempt was made to comply with these guidelines.

Mailed notices are not provided where the application is for a proposed future land use amendment encompassing in excess of 5% of the total land area of the County.

Applicants requesting future land use amendments shall post the property by placard in accordance with the following procedures:

- A The Planning and Development Division shall prepare placards and provide direction to applicants for posting.
- B The Planning and Development Manager shall determine the size and text of placards.
- C The Planning and Development Manager may require additional placards for larger properties.
- D Placards shall be clearly visible from a public or private street, way, or place, preferably a collector or arterial road whenever possible.
- E Posting of placards shall be at least 15 days prior to a scheduled public hearing.
- F When a placard is required, failure to post such a placard shall not be cause for continuation or rescheduling of a public hearing unless the board or commission finds that the applicant conducted himself/herself in a manner intentionally designed to mislead the public or discourage public participation.

If an application is withdrawn by letter or other formal notice prior to the announced hearing, or is continued to a date certain before the hearing is legally convened, no new public notice is required, unless directed by the board or commission. If an application is continued to a date certain that is greater than 60 days from the date of the application was continued, the

County shall publish a new advertisement, provide notice to property owners, and post a placard of the property, as provided for in this section. If the County continues an application, but not to a date certain, the new notice shall be provided in accordance with this section at the expense of the applicant.

### **Proposed Amendments to the Comprehensive Plan**

Property owners or individuals having appropriate legal interests in parcels of property may request an amendment to the County's Comprehensive Plan for a change to future land use designations. The County shall process Plan amendment applications in accordance with the provisions of this Plan and Part II, Chapter 163, Florida Statutes, or any other applicable County administrative code, home rule charter process, or interlocal agreement.

### **Ethics**

All matters related to comprehensive planning and related processes shall be subject to the provisions of Part III, Chapter 112, Florida Statutes (the Code of Ethics for Public Officers and Employees) or its successor provisions and any adopted County code of ethics.

### **Subsequent Procedures**

The provisions set forth herein are minimum provisions which are intended to facilitate the orderly review, discussion and consideration of public matters relating to comprehensive planning and related processes.

### **CONCURRENCY MANAGEMENT SYSTEM**

The following program descriptions ensure that Comprehensive Plan levels of service are achieved or exceeded. The County has adopted each implementation program by ordinance, resolution or executive order, as appropriate for each implementation program.

### **Definitions**

The following definitions apply:

A "Category of public facilities" means a specific group of public facilities, as follows:

- 1) Category I - Concurrency Facilities Operated by County. Category I public facilities are arterial and collector roads located within the rural portions of unincorporated Seminole County not included within the Transportation Concurrency Exception Area (see *Exhibit TRA: Dense Urban Area/Transportation Concurrency Exception Areas*), stormwater management, potable water, sanitary sewer, solid waste, and parks and recreation facilities owned or operated by the County, all of which are addressed in the several Elements of this Comprehensive Plan.
- 2) Category II - Concurrency Facilities Operated by Non-County Entities. Category II public facilities are State arterial and collector roads classified as part of the Strategic Intermodal System, mass transit, stormwater management, potable water, sanitary sewer, solid waste, parks and recreation facilities owned or operated by Federal, State, municipal, or other county governments, independent districts, private organizations, and public schools.

B "Development order" means any order or permit granting, denying, or granting with conditions, an application for a preliminary development order, final development order, development permit, or any other official action of the County having the effect of permitting the development of land.

- 1) "Preliminary development order" means a new land use designation to a parcel of real property, planned development preliminary site plan, planned development



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preliminary master plan, the rezoning of a parcel of real property, or a subdivision development plan.

- 2) "Final development order" means the approval of a development of regional impact, borrow pit permit, electrical permit, planned commercial development final site plan, planned unit development final master plan, right-of-way utilization permit, site plan, special exception, variance, subdivision preliminary plat, subdivision final plat, underground utility permit, waiver to subdivision platting requirements, dredge and fill permit, written agreement with Seminole County School Board for the provision of public facilities and services as required by State Law, and any other development order which results in an immediate and continuing impact upon concurrency public facilities. Final Development orders may address future expansions of a development and may provide for phasing. A Final Development order may provide for meeting conditions for subsequent approvals or permits.
- C "Development permit" means a arbor permit, building permit, construction permit-site, construction permit-subdivision, deck and porch permit, plumbing permit, razing permit, septic repair permit, septic tank permit, sign permit, and any other development approval other than a final development order or preliminary development order.
- D "Public facility" means the capital improvements and systems of each of the following: arterial and collector roads, mass transit, stormwater management, potable water, sanitary sewer, solid waste, parks and recreation, library service, fire-rescue service, and other County buildings.
- E "Financial Feasibility" means that sufficient revenues are currently available or will be available from committed funding sources for the first 3 years, or will be available from committed or planned funding sources for years 4 and 5, of a 5-year capital improvement schedule for financing capital improvements, such as ad valorem taxes, bonds, State and Federal funds, tax revenues, impact fees, and developer contributions, which are adequate to fund the projected costs of the capital improvements identified in the comprehensive plan necessary to ensure that adopted level-of-service standards are achieved and maintained within the period covered by the 5-year schedule of capital improvements. A comprehensive plan shall be deemed financially feasible for transportation and school facilities throughout the planning period addressed by the capital improvements schedule if it can be demonstrated that the level-of-service standards will be achieved and maintained by the end of the planning period even if in a particular year such improvements are not concurrent as required by Section 163.3180, Florida Statutes (FS). In the event a transportation facility is identified with a significant backlog, the County shall adopt, as a part of its plan, a long-term transportation concurrency management system with a planning period of up to 10 years for specially designated districts or areas where such backlogs exist. The plan may include interim level-of-service standards on certain facilities and shall rely on the adopted 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 will be designed to correct existing deficiencies and set priorities for addressing backlogged facilities. The concurrency management system will be financially feasible and consistent with other portions of the adopted local plan, including the future land use map. [Section.163.3180(9)(a), FS].

Additionally, the County's comprehensive plan shall be deemed financially feasible for transportation and school facilities throughout the planning period addressed by the capital improvements schedule if it can be demonstrated that the level-of-service standards will be

achieved and maintained by the end of the planning period even if in a particular year such improvements are not concurrent as required by Section. 163.3189, FS.

- F “Proportionate Fair-Share Program” means development may contribute toward transportation concurrency requirements so that development may proceed when the proposal is otherwise consistent with the Comprehensive Plan but transportation service capacity is not available. This program, created by State Statutes, provides an opportunity for the developer to contribute a share of the cost of improving the impacted transportation facility.

### **Land Development Regulations**

The County shall maintain its land development regulations providing for a system of review of various applications for development orders and permits, which applications, if granted, would impact the levels of service of Category I and Category II public facilities. Such system of review shall assure that the County does not issue a final development order or development permit, which results in a reduction in the levels of service below the standards adopted in the Comprehensive Plan for Category I and Category II public facilities. The County land development regulations also contain the methodology for determining the proportionate fair-share obligation for a transportation facility, if said transportation facility fails to achieve transportation concurrency and the developer wishes to exercise the option to satisfy transportation concurrency provided by Section 163.3180(16), Florida Statutes (F.S.). The methodology to calculate proportionate fair-share mitigation, which is specified in the Land Development Code, shall be as provided in Section 163.3180(12), FS. Proportionate fair-share mitigation includes separately or collectively, private funds, contributions of land, and construction and contribution of facilities, and may include public funds as determined by Seminole County. In addition, pursuant to Section 163.3180(16)(e), FS, and as required in the Land Development Code, mitigation for development impacts to facilities on the Strategic Intermodal System requires concurrence of the Department of Transportation.

In compliance with State law, the County land development regulations shall contain a methodology to calculate the proportionate fair share and options for school facilities, pursuant to Section 163.3180(13)(e), FS, should a developer wish to pursue this option. This option requires concurrence of the School Board of Seminole County.

The land development regulations address the circumstances under which applicants may provide public facilities for development orders or permits. The County may issue development orders and permits, subject to the provision of public facilities by the applicant, and subject to each of the following requirements:

- A The County and the applicant enter into an enforceable development agreement which shall provide, at a minimum, a schedule for construction of the public facilities and mechanisms for monitoring to ensure that the public facilities are completed concurrent with the impacts of the development, or the development will not be allowed to proceed; and
- B The public facilities to be provided by the applicant are contained in the Schedule of Capital Improvements of the Comprehensive Plan, or, in the case of a development where transportation concurrency is to be met through the proportionate fair-share methodology provided in Section 163.3180(12), Florida Statutes (FS), and in accordance with Section 163.3180(16), FS, a transportation improvement or improvements are added to the Schedule of Capital Improvements of the Comprehensive Plan and the County five-year Capital Improvement Program no later than the next regular update of those documents.

### **Concurrency Implementation and Monitoring System**





The County shall continue Concurrency Implementation and Monitoring Systems consisting of the following components:

### Public Facility Capacity Review

The County shall analyze each application for a development order or permit for concurrency. The County shall maintain records during each fiscal year to indicate the cumulative impacts of all development orders approved during the fiscal year-to-date on the capacity of public facilities. The land development regulations of the County provide that applications for development orders that are denied because of insufficient capacity of public facilities may be resubmitted after a time period to be specified in the land development regulations. Such time period is in lieu of, and not in addition to, other minimum waiting periods imposed on applications for development orders that are denied for reasons other than lack of capacity of public facilities. Land development regulations require that development commence within a specified time after a development order is issued, or the determination of capacity shall expire, subject to reasonable extensions of time based on criteria included in the regulations.

### Review of Changes in Planned Capacity of Public Facilities

The County shall review each amendment to the Capital Improvements Element, in particular any changes in standards for levels of service and changes in the Schedule of Capital Improvements, in order to review the amount of capacity that is available.

### Concurrency Implementation Strategies

The County applies standards for levels of service according to the timing of the impacts of development on public facilities. Final development orders and development permits impact public facilities in a matter of months and are issued subject to the availability of water, sanitary sewer, solid waste, and stormwater management facilities prior to the impacts of the development. Parks must be under construction within one (1) year of the issuance of the development order or permit. Roads and mass transit must be included in the first three (3) years of the five (5) year capital improvements schedule, or, in the case of a transportation improvements, financed through the proportionate fair-share Program, as provided in Section 163.3180(16), Florida Statutes (FS), using methodology as provided in Section 163.3180(12), FS, must be added to the County's five-year Capital Improvement Schedule at the next regular amendment update, and the schedule must:

- A Be financially feasible based on currently available sources of revenue, including proportionate fair-share contributions determined by the methodology included within the Land Development Code and as provided in Section 163.3180(12), FS;
- B Include estimated dates of commencement and completion of actual construction;
- C Not be changed without an amendment to the Comprehensive Plan; and
- D Designate the areas to be served by facilities.

The County issues preliminary development orders subject to public facility capacity, but the capacity determination expires unless the applicant provides financial assurances to the County and obtains subsequent development orders before the expiration of the initial development order. As an alternative, the County can waive determination of public facility capacity for preliminary development orders with a written agreement that a capacity determination is required prior to issuance of any final development order or development permit for the subject property. Such waiver specifically precludes the acquisition of rights to a final development order or permit because of the issuance of the preliminary development order. (See *Policy IMP 2.4 Preliminary Development Orders (Capacity Determination)*).

The County applies standards for levels of service within appropriate geographical areas of the County. The County applies standards for Countywide public facilities to development orders based on levels of service throughout the County. The County applies standards for public facilities that serve less than the entire County to development orders based on levels of service within assigned service areas. (See *Objective IMP 3 Geographic Areas for Determination*).

The County prioritizes public facility capital improvements according to the criteria in the Capital Improvements Element, and considers applications for available capacity on a first-come, first-served basis.

The County reviews the Concurrency Implementation Strategies as part of each Evaluation and Appraisal Report cycle.

### **Capacity of Public Facilities for Development Orders or Permits Issued Prior to Adoption of the Plan**

The County will identify properties that have vested development rights pursuant to procedures contained in the land development regulations. Properties not identified by the County as having vested development rights may petition for a determination of such rights.

The County recognizes legitimate and substantial vested development rights obtained with some previously issued development orders or permits, provided the issuance was otherwise appropriate and not the result of a mistake, error, fraud, or an ultra vires act.

The County reserves capacity of public facilities to serve the needs of properties with vested development rights. In the event that there is not sufficient capacity to serve the vested properties, the County will create a hold on future capacity of public facilities in order to serve the vested property at the adopted level of service standard before allowing non-vested property to use future public facility capacity. In such circumstances, the vested development will be allowed to commence in order to avoid a “taking” of the vested rights.

The County shall require vested properties to commence development and to “continue in good faith” in order to maintain the “reservation” of capacity of public facilities which are provided by the County. Absent a commencement of development and good faith efforts to continue that development, the vesting shall lapse and be of no further force or effect. The County shall evaluate the timing and estimated density/intensity of vested properties based on logical analysis and reasonable projections in order to phase the reservation of capacity to meet the probable needs of such properties. Experience indicates that many vested development orders and permits are not used to the maximum allowable uses, densities or intensities, or reach such development limits over extended periods of time.

The primary mechanism for assigning or determining the phasing of capacity reservations for vested developments shall be the analysis of historical development data and trends included in the Future Land Use Element Support Document and other factors including, but not limited to, conditions included in individual development orders constraining the timing of development.

The County finds that it is not necessary to automatically “reserve” capacity of public facilities for non-vested development orders issued prior to the adoption of the County’s Comprehensive Plan. Such development orders should be subject to the concurrency requirement. The County finds that the population forecasts that are the basis for this plan are a reasonable prediction of the absorption rate for development, and that the capital facilities which are planned to serve the forecast development are available for that absorption rate. Reserving public facility capacity for non-vested previously issued

development orders would deny new applicants access to public facilities, and would arbitrarily enhance the value of dormant development orders and permits.

## **Public School Uniform Concurrency System**

Section 163.3180(13), Florida Statutes, calls for local governments to create a uniform school concurrency system based on an adopted Public School Facilities Element as part of its comprehensive plan that:

- A Establishes level of service standards;
- B Creates concurrency service areas;
- C Provides a process for determining proportionate-share mitigation; and
- D Provides for a number of other related intergovernmental coordination and implementation processes established by interlocal agreement.

The intent of school concurrency, in its simplest form, is to forge a link between development and school capacity, and to require greater coordination between local governments and school districts.

In 2007, the County, County School Board, and County Municipalities, developed an interlocal agreement (Interlocal Agreement for Public School Facility Planning and School Concurrency, as Amended January 2008) in addition to a Public School Facilities Element, as required by Section 163.31777, 163.3180(13) and 163.3177(12), Florida Statutes (FS).

Beginning in 2007, the County and County Municipalities began coordinating with the Seminole County School Board in preparing, amending, and joint approving financially feasible public school facilities programs and adoption of these program into County and Municipal Comprehensive Plans, as required by Section 163.3180(13), FS.

## **Proportionate Fair-Share Program**

The Florida Growth Management Act of 1985 included a requirement that all local governments must adopt "Concurrency Management Systems (CMS) to ensure that necessary public services are available concurrent with the impacts of development on those services. The CMS requires local governments to adopt "Levels of Service", and, as a part of development approval, evaluate whether the service needs of a proposed development exceed the existing capacity of a service and any scheduled improvements. If adequate capacity is not available, local governments cannot permit a development unless certain specified conditions are applied. In the case of a proposed development or redevelopment within the Dense Urban Land Area/Transportation Concurrency Exception Area , the development shall be evaluated for its consistency with the adopted Mobility Strategy instead of roadway capacity.

## **Financial Feasibility**

Financial feasibility is important as the premise of concurrency provides that public facilities will be provided in order to achieve and maintain adopted level of service standard within the period covered by the five year schedule of capital improvements. The requirement that level of service standards be achieved and maintained shall not apply if the proportionate-share process set forth in Section 163.3180(12) and (16), Florida Statutes, is used. See *Policy IMP 2.5 Development Orders (Capacity Determinations and Availability)*, C.3.c, that Seminole

County uses a realistic, financially feasible funding system based on currently available revenue sources as defined in Chapter 9J-5.003(29), Florida Administrative Code.

### **MOBILITY STRATEGY**

In accordance with subsection 163.3180 (5)(a), Florida Statutes, wherein the Legislature found that the unintended result of the concurrency requirement for transportation facilities is often discouragement of urban infill development and redevelopment, which conflicts with the goals and policies of the state comprehensive plan: the nonrural portion of Seminole County was designated as a Transportation Concurrency Exception Area (TCEA). (See *Exhibit TRA: Dense Urban Land Area/Transportation Concurrency Exception Area*).

In accordance with the provisions of Subsection 163.3180 (5)(b) 4, FS, Seminole County and its cities shall, by July 9, 2011, adopt into their comprehensive plans the land use and transportation strategies to support and fund mobility strategies to address the needs of mobility within the TCEA. This strategy has been addressed in *Goal TRA 2 Centers and Corridors*, and *Objective TRA 2.1 Mobility Strategies and Quality/Level of Service Standards*.





### **IMPLEMENTATION ELEMENT CONCURRENCY MANAGEMENT SYSTEM OBJECTIVES AND POLICIES**

#### **OBJECTIVE IMP 1 ESTABLISH LEVEL OF SERVICE STANDARDS**

The County shall continue to enforce standards for levels of service for Categories I and II of public facilities, and shall apply the standards as set forth defined in the policies below.

##### **Policy IMP 1.1 Concurrency (Category I)**

The standards for levels of service of each type of public facility in Category I shall apply to development orders issued by the County after March 31, 1992, the County's annual budgets beginning with the 1991-92 fiscal year, the County's Capital Improvement Programs beginning with the 1991-92 fiscal year, and other Elements of this Comprehensive Plan.

##### **Policy IMP 1.2 Concurrency Facilities Operated by Non-County Entities (Category II)**

The standards for levels of service of each type of public facility in Category II shall apply to development orders issued by the County after March 31, 1992, and other Elements of this Comprehensive Plan, but shall not apply to the County's annual budgets or the County's Capital Improvement Programs. The exception shall be that levels of service for public schools shall apply to development orders issued by the County after January 1, 2008.

### **OBJECTIVE IMP 2 DETERMINATION OF CAPACITY**

The County shall continue to determine the availability of facility capacity to meet adopted level of service standards of the several County public facilities prior to development approvals.

#### **Policy IMP 2.1 Establishment of Concurrency Doctrine**

The Board of County Commissioners of Seminole County finds that the impacts of development on public facilities within the County occur at the same time (i.e., concurrently) as development authorized by certain final development orders or development permits.

#### **Policy IMP 2.2 Concurrency Management System Implementation**

The County shall determine, prior to the issuance of development orders, whether or not there is sufficient capacity of Category I and Category II public facilities to meet the standards for levels of service for existing and committed development and the impacts of proposed development concurrent with the proposed development, including in such determination for transportation improvement capacity any additional capacity to be financed through the proportionate fair-share Program. It shall be noted that Category I includes arterial and collector roads that are located outside of the Dense Urban Land Area/Transportation Concurrency Exception Area (DULA/TCEA.) With respect to mobility within the DULA/TCEA, development proposals shall be examined for consistency with and support of the mobility strategy of the Transportation Strategy Area in which the proposal is located. A developer may or may not make a proportionate fair-share contribution toward ensuring that the mobility strategy continues to meet the mobility needs of that Strategy Area, at the direction of the Board of County Commissioners and based on the absence of particular mobility facilities and the fact that the County has not committed 100% of the funding for that facility, but issuance of a development order is not conditioned upon a transportation improvement capacity availability. The methodology to calculate proportionate fair-share mitigation, which is specified in the Land Development Code, shall be as provided in Section 163.3180(12), Florida Statutes (FS) and in accordance with Section 163.3180(16), FS Proportionate fair-share mitigation includes separately or collectively, private funds, contributions of land, and construction and contribution of facilities, and may include public funds as determined by Seminole County. Mitigation for development impacts to facilities on the Strategic Intermodal System, as required by Section 163.3180(16)(e), FS, and the Land Development Code, requires concurrence of the Department of Transportation.

#### **Policy IMP 2.3 Maintain Adopted Level of Service Standards**

The County shall not issue a final development order or development permit under which development activity impacting public facilities may ensue unless there shall be sufficient capacity of Category I and Category II public facilities to meet the standards for levels of service for existing development and for the proposed development, and the development order or permit shall be subject to the requirements of *Policy IMP 2.5 Development Orders (Capacity Determinations and Availability)*. With respect to mobility within the Dense Urban Land Area/Transportation



Concurrency Exception Area , development proposals shall be examined for consistency with and support of the mobility strategy of the Transportation Strategy Area in which the proposal is located. A developer may or may not make a proportionate fair-share contribution toward ensuring that the mobility strategy continues to meet the mobility needs of that Strategy Area, at the direction of the Board of County Commissioners and based on the absence of particular mobility facilities and the fact that the County has not committed 100% of the funding for that facility, but issuance of a development order is not conditioned upon a transportation improvement capacity availability. In the absence of a final development order under which development activity impacting public facilities may ensue or a development permit, no development of land is authorized.

### **Policy IMP 2.4 Preliminary Development Orders (Capacity Determination)**

For preliminary and final development orders for which no development activity impacting public facilities may ensue, the capacity of Category I and Category II public facilities shall be determined as follows:

- A The applicant may request a determination of such capacity as part of review and approval of the development order subject to the requirements of *Policy IMP 2.5 Development Orders (Capacity Determinations and Availability)*; or
- B The applicant may elect to request approval of the development order without a determination of capacity of Category I and Category II public facilities provided that any such order is issued subject to requirements in the applicable land development regulation or to specific conditions contained in the development order that:
  - 1 Final development orders under which development activity impacting public facilities may ensue, and development permits for the subject property are subject to a determination of capacity of Category I and Category II public facilities, as required by *Policy IMP 2.5 Development Orders (Capacity Determinations and Availability)*.
  - 2 No rights to obtain final development orders under which development activity impacting public facilities may ensue, or to obtain development permits, nor any other rights to develop the subject property shall be deemed to have been granted or implied by the County's approval of the development order without a determination having previously been made that the capacity of public facilities will be available in accordance with law.

### **Policy IMP 2.5 Development Orders (Capacity Determinations and Availability)**

The availability of public facility capacity to support development orders or permits issued pursuant to *Policies IMP 2.3 Maintain Adopted Level of Service Standards* and *IMP 2.4 Preliminary Development Orders (Capacity Determination)*, A. shall be concurrent with the impacts of such development and shall be determined in accordance with the following:

- A Potable Water, Sanitary Sewer, Solid Waste, and Drainage Facilities:
  - 1 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 Seminole County of a certificate of occupancy or its functional equivalent.

- 2 Prior to approval of a building permit or its functional equivalent, Seminole County 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 of a certificate of occupancy or functional equivalent.
- 3 Within areas where on-site sewage treatment facilities are allowable, Seminole County may meet the concurrency requirement for sanitary sewer through the use of on-site sewage treatment and disposal systems approved by the Department of Health to serve new development.

**B Parks and Recreation Facilities:**

- 1 Consistent with the public welfare, parks and recreation facilities to serve new development shall be in place or under actual construction no later than one year after issuance by Seminole County of a certificate of occupancy or its functional equivalent. However, acreage for such facilities shall be dedicated or acquired by Seminole County prior to issuance of a certificate of occupancy, or funds in the amount of the developer's fair share shall be committed no later than Seminole County's issuance of approval to commence construction.

**C Transportation Facilities:**

- 1 Consistent with the public welfare, for those portions of Seminole County contained within areas defined as "rural" by the Seminole County Comprehensive Plan (including the East Seminole County Rural Area, and the Wekiva River Protection Area, transportation facilities needed to serve new development shall be in place or under actual construction within three years after Seminole County approves a building permit or its functional equivalent that results in traffic generation. With respect to mobility within the Dense Urban Land Area/Transportation Concurrency Exception Area , development proposals shall be examined for consistency with and support of the mobility strategy of the Transportation Strategy Area in which the proposal is located. A developer may or may not make a proportionate fair-share contribution toward ensuring that the mobility strategy continues to meet the mobility needs of that Strategy Area at the direction of the Board of County Commissioners and based on the absence of particular mobility facilities and the fact that the County has not committed 100% of the funding for that facility, but issuance of a development order is not conditioned upon a transportation improvement capacity availability.
- 2 Any of the provisions of section B.1.-B.3 listed above for parks and recreation; or
- 3 The County has committed to provide the necessary public facilities in accordance with the five year Schedule of Capital Improvements





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and approved developer fair share agreements. For standard Transportation Concurrency in the rural area, the County has adopted and implemented a concurrency management system based upon an adequate capital improvements program and schedule, provided that:

- a. The Capital Improvements Element and five year Schedule of Capital Improvements must be financially feasible. Included in the determination of financial feasibility shall be any proportionate fair-share contribution as provided by Section 163.3180(16), Florida Statutes (FS) and determined by the methodology included in the Land Development Code in accordance with Section 163.3180(12), FS, where this option is used to satisfy transportation concurrency. The list of public facilities may include transportation projects included in the first three (3) years of the applicable adopted Florida Department of Transportation five-year work program. In the case of a development choosing to satisfy transportation concurrency requirements through the proportionate fair-share program, as provided by Section 163.3180(16), FS, the County must add the transportation improvement or improvements to the five-year Capital Improvements Program (CIP) and five year Schedule of Capital Improvements within the County's Comprehensive Plan Capital Improvements Element at the next regular update of those documents.
- b. The five-year Schedule of Capital Improvements must include both necessary facilities to maintain the adopted level of service standards to service new development proposed to be permitted, and the necessary facilities required to eliminate those portions of existing deficiencies which are a priority to be eliminated during the five year period under the County's Schedule of Capital Improvements in this Comprehensive Plan.
- c. The County uses a realistic, financially feasible funding system based on currently available revenue sources as defined in Chapter 9J-5.003(29), Florida Administrative Code, including any funds generated through the proportionate fair-share option as provided in Section 163.3180(16), FS and determined according to the methodology included in the Land Development Code in accordance with Section 163.3180(12), FS. The revenues must be adequate to fund the public facilities required to serve the development authorized by the development order or development permit, and which public facilities are included in the five year Schedule of Capital Improvements in this Comprehensive Plan, or, in the case of a transportation project to be funded through the proportionate fair-share program as provided by Section 163.3180(16), FS, the improvement is added to the five-year Schedule of Capital Improvements at the next regular update of those documents.
- d. The five year Schedule of Capital Improvements in this Comprehensive Plan must include the estimated date of

commencement of actual construction and the estimated date of project completion.

- e. The five year Schedule of Capital Improvements in this Comprehensive Plan must demonstrate that the actual construction of the roads and mass transit facilities are scheduled to commence in or before the third year of the five-year Schedule of Capital Improvements.
  - f. An amendment to this Comprehensive Plan is required to eliminate, defer, or delay construction of any road or mass transit facility needed to maintain the adopted level of service standard and is listed in the five-year Schedule of Capital Improvements in this Comprehensive Plan.
  - g. The County shall continue to enforce land development regulations, which, in conjunction with the Capital Improvements Element, ensure issuance of development orders and permits in a manner that will assure that the necessary public facilities will be available to accommodate the impact of that development.
  - h. The County shall continue to enforce a monitoring system which determines whether the County is adhering to the adopted level of service standards and the Schedule of Capital Improvements in this Comprehensive Plan, and which demonstrates the County's capability of monitoring the availability of public facilities.
  - i. This Comprehensive Plan shall continue to designate clearly the areas within which the County will provide facilities with public funds in accordance with the five year Capital Improvements Schedule of this Comprehensive Plan.
- 4 In the event a transportation facility within the rural area is identified with a significant backlog, the County shall adopt, as a part of its plan, a long-term transportation concurrency management system with a planning period of up to 10 years for specially designated districts or areas where such backlogs exist. The plan may include interim level-of-service standards on certain facilities and shall rely on the adopted 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 will be designed to correct existing deficiencies and set priorities for addressing backlogged facilities. The concurrency management system will be financially feasible and consistent with other portions of the adopted local plan, including the future land use map. [Section.163.3180(9)(a, Florida Statutes].

Additionally, the County's comprehensive plan shall be deemed financially feasible for transportation and school facilities throughout the planning period addressed by the capital improvements schedule if it can be demonstrated that the level-of-



service standards will be achieved and maintained by the end of the planning period even if in a particular year such improvements are not concurrent as required by Section. 163.3189, Florida Statutes.

- 5 The County shall enforce land development regulations to allow for proportionate share contributions from developers toward meeting transportation concurrency requirements. Compliance with these regulations will provide developers an opportunity to proceed with a development when proposal is otherwise consistent with the Comprehensive Plan, but transportation service capacity is not available.

### **Policy IMP 2.6 Limitation of Capacity Determinations**

The determination that capacity is available shall apply only to specific uses, densities and intensities included in the development order or permit or in an enforceable developers agreement. The certificate of capacity shall not be transferable to any other property.

### **Policy IMP 2.7 Time Frame of Capacity Determinations**

The determination that such capacity is available shall be valid for a period specified in the County's land development regulations. No further determination of capacity for the subject property is required prior to the expiration of the determination of capacity for the development order or permit, provided that the capacity has been reserved for the development order or permit. The subject property may extend the reservation of capacity to subsequent development orders or permits for the same property. Any change in the density, intensity, or land use that requires additional public facilities or capacity, is subject to review and approval or denial by the County.

### **Policy IMP 2.8 Assurances of Capacity Availability**

The determination that such capacity is available shall be binding on the County to the extent authorized by law, at such time as the applicant provides assurances, acceptable to the County in form and amount, to guarantee the applicant's pro rata share of the County's financial obligation for public facilities. The County will construct these facilities for the general benefit of the public and the special benefit of the subject property. The County's land development regulations specify acceptable forms of assurances and procedures to follow in the event that an applicant's pro rata share of a public facility is less than the full cost of the facility.

### **Policy IMP 2.9 Vested Rights**

The County shall continue to enforce land development regulations that establish the criteria for determining the vested rights of previously issued development orders, and establishing the procedures for reserving capacity of public facilities needed to address the impacts of such vested development orders.



## **OBJECTIVE IMP 3 GEOGRAPHIC AREAS FOR DETERMINATION**

The County shall apply standards for levels of service of Category I and Category II public facilities to the issuance of development orders on a geographical basis.

### **Policy IMP 3.1 Arterial and Collector Roads**

The County shall not issue a development order or permit in any unincorporated part of Seminole County that is not a part of the Transportation Concurrency Exception Area if the standard for levels of service of arterial and collector roads are not achieved and maintained, except as otherwise provided in *Policy TRA 1.1.10 Alternative Land Development Proposals*. The County shall identify, in the land development regulations, trip generation thresholds and geographic impact areas for developments based upon types of land uses, associated densities and intensities, total trip generation and radius of traffic impact.

### **Policy IMP 3.2 Other Public Facilities Which Serve All of Seminole County**

Other public facilities which serve all of Seminole County shall achieve and maintain the standards for levels of service on a Countywide basis. No development order or permit shall be issued in any unincorporated part of Seminole County if the standard for levels of service are not achieved and maintained throughout the County for:

- A Solid Waste Disposal
- B Parks and Recreational Facilities

### **Policy IMP 3.3 Other Public Facilities Which Serve Less Than All of Seminole County**

Other public facilities, which serve less than all of Seminole County, shall achieve and maintain the standard for levels of service within their assigned service area. No development order or permit shall be issued in an assigned service area if the standard for levels of service are not achieved and maintained throughout the assigned service area for the following public facilities and assigned service areas:

- A Potable Water Systems: Water System Service Area as designated in the Potable Water Element of the Comprehensive Plan.
- B Sanitary Sewer Systems: Sanitary Sewer System Service Area as designated in the Sanitary Sewer Element of the Comprehensive Plan.
- C Stormwater Management Systems: Site Specific.
- D Mass Transit: Mass Transit Service Areas.
- E Public School Facilities: School concurrency shall be measured and applied using a geographic area known as a Concurrency Service Area (CSA), which coincides with groupings of school attendance zones within each school type based on adjacency, as established by the 2007 Interlocal Agreement for Public School Facility Planning and School Concurrency as Amended January 2008 (Interlocal Agreement). The mappings of CSAs are included in the data and analysis of the Public School Facilities Element Support Document and are provided in the Appendix to the Interlocal Agreement.

