

Article 12. Level of Service (LOS) Concurrency Management

12.00.00 General provisions/purpose, intent and applicability

This article is established for the purpose of ensuring that the issuance of a building permit will not degrade the level of service for any facility located within the City below the adopted level of service standard. This article provides processes for measuring compliance with level of service (LOS) standards adopted in the Comprehensive Plan for the following public facilities: transportation; potable water; solid waste; stormwater; public schools; and, parks and recreation. No final development order or building permit shall be issued to construct, reconstruct, or alter any building or structure; use of an existing building shall be not be changed; and no special exception shall be granted; until a site plan for the property has been reviewed and evaluated to determine compliance with the concurrency management provisions of this article. Any proposed rezoning which would result in an increase in the densities or intensities of development, shall be tested for facility capacity and concurrency at the time of rezoning.

Concurrency evaluation is one factor in the development review process, and compliance with only this article does not guarantee approval of the project. Unless otherwise provided herein, this article shall apply to all new developments of structures or property and the additional impacts from changes to existing development. The provisions of this article shall assess only the net impacts created from the development of a lot. Please reference Section 12.01.00 of this article which lists those projects exempt from the concurrency evaluation review process.

12.01.00 Concurrency Requirements

1. A Concurrency Certificate shall be required to be granted by the City prior to the issuance of the earliest of the following development permit or approvals except as exempted in the Article. The following are determined to require a concurrency certificate:
 - a. Building Permit
 - b. Preliminary Development Order
 - c. Final Development Order
 - d. Final Plat
2. A Concurrency Certificate shall not be required prior to commencement of construction of any new public facility by any other government, school board, quasi-governmental agency or health care facility constructed to meet the obligation to furnish health care services to indigents and residents of the district and authorities created by the special legislative acts creating the independent special taxing districts to the extent that such construction is authorized by the special acts as they may be amended.
3. A Concurrency Certificate shall not be required when development orders or building permits for single family homes or duplexes within existing platted subdivisions of record recorded prior to the effective date of this Article or where all public facilities required within the subdivision to support the property has been provided and accepted by the City.
4. If a proposed development includes land use of such low intensity as to have a de minimis effect, if any, upon the level of service standards set forth in the City's Comprehensive Plan, the development shall be exempt from concurrency review. De minimis development impact for transportation concurrency applies to a project that does not exceed one percent (1%)

of the maximum volume at the adopted level of service (LOS) on affected transportation facilities. Said project shall be exempt from the requirements of this article.

5. A Concurrency Certificate shall not be required for the replacement of structures destroyed by fire, hurricanes, tornadoes or other acts of God not exceeding the area and cubic content of the structure prior to its destruction.
6. If the proposed change of use shall have an impact on public facilities and/or services which is equal to or less than the previous use, then the proposed change, redevelopment or modification of use may proceed without the encumbrance of additional capacity in accordance with the provisions of this Article.
7. All applications for development orders or permits shall demonstrate that the proposed development does not degrade adopted levels of service in the City.
8. The standards used in the review of projects for available capacity shall be the level of service standards established in the City's Comprehensive Plan referenced below:

<u>Required Facilities</u>	<u>Comprehensive Plan Element</u>	<u>Comprehensive Plan Objectives and Policies</u>
Transportation	Capital Improvement Element	Goal VIII-1; Objective VIII-4; Policy VIII 4.1
Stormwater Drainage	Capital Improvement Element	Goal VIII-1; Objective VIII-4; Policy VIII 4.1
Potable Water	Capital Improvement Element	Goal VIII-1; Objective VIII-4; Policy VIII 4.1
Solid Waste	Capital Improvement Element	Goal VIII-1; Objective VIII-4; Policy VIII 4.1
Public Schools	Intergovernmental Coordination Element	Goal IX-1; Objective IX-3; Policy IX 3.3

9. For purposes of this section, the term "previous use" shall mean either: the use existing on the site when a concurrency evaluation is sought; or if no active use exists on the site at the time when a concurrency evaluation is sought, then the most recent use on the site within the 10-year period immediately prior to the date of application.

12.02.00 Application and Review Procedures

1. Development projects shall be reviewed to determine the effect of the project on the capacity of the following public facilities:
 - a. Transportation Systems
 - b. Potable Water Systems
 - c. Park and Recreation Facilities
 - d. Stormwater Management Systems
 - e. Solid Waste Collection and Disposal Capacity
 - f. Public School Facilities
2. Review shall be initiated by the owner, developer or authorized agent by submitting a completed Concurrency Application. This may be done in conjunction with other development review procedures. The application shall include a site plan drawn from or based on a

survey of the site, legal description of the property and all other information requested so that a determination of the size, scale and nature of the infrastructure impacts can be determined. Incomplete applications will be returned to the applicant.

3. The applicant shall provide all of the pertinent information required for the City to assess the impacts of the development and make a concurrency determination. The burden of showing compliance with the adopted levels of service and meeting the concurrency evaluation shall be upon the applicant.
4. The applicant shall utilize evaluation methodologies as identified below and may also consider other appropriate methodologies, evaluations, studies, documents, or other information that are deemed to provide accurate information in the quantification of infrastructure capacity impacts.
5. Concurrency evaluations shall be conducted prior to the issuance of all development permits specified in this Article as requiring a Concurrency Certificate. In addition, a Concurrency Evaluation shall be prepared for review in conjunction with all preliminary plats in excess of four residential lots.
6. Concurrency evaluations shall also be prepared for review in conjunction with applications for Comprehensive Plan map amendments.
7. In order to measure the demands for infrastructure capacity from development, the following methods shall be used:

<u>Infrastructure System</u>	<u>Method</u>
Potable Water	Capacity: Established by the Dept. of Environmental Regulation Demand: Rule 100 - 6, FOHRS
Solid Waste	Capacity: As determined by Volusia County's Environmental Service Department Demand: Average customer demand based on records of past usage.
Parks and Recreation	Capacity: Total existing park land acreage Demand: Number of permanent residential housing units x 2.51 persons
Traffic Circulation	Capacity: Florida Highway Capacity Manual Demand: ITE Trip Generation Manual, latest edition
Stormwater Drainage	Established in Article 9 of the Stormwater regulations and Chapter 40C-171 42, in particular section 40C-42.025, Florida Administrative 172 Code (F.A.C.)
Public Schools	Established by the Volusia School Districted as noted in Chapter 9 of the comprehensive plan

8. **Potable Water.** The applicant shall submit proof that sufficient capacity exists as demonstrated by documentation that the applicable water production plan has the capacity to serve the proposed project, at or above the adopted level of service. If the ability to serve a proposed project is contingent upon planned facility expansion, details regarding such planned improvements shall also be submitted.
9. **Stormwater Drainage.** The applicant shall submit an affidavit acknowledging that all stormwater quality and quantity requirements of this article and Article 9, the Florida Department of Environmental Protection, and the St. Johns River Water Management District can and must be met prior to the issuance of a certificate of occupancy for the proposed development.
10. **Solid Waste.** In performing concurrency evaluations for solid waste, the applicant shall submit proof that sufficient capacity exists at the County's solid waste disposal facilities.
11. **Public Schools.** The applicant of development subject to school concurrency review shall submit a completed School Planning and Concurrency Application to the school district for review and concurrency finding which shall then be submitted to the City.
12. In performing concurrency evaluations for traffic circulation or roadway capacity, the evaluation shall conform to the following parameters:
 - a. The level of service shall be based on the peak hour directional traffic flow.
 - b. Trip generation rates shall be based upon the latest edition of ITE's Trip Generation Manual or other specific local site surveys deemed by the City to be representative of the proposed use. All generated trips shall be assumed to be external, unless documented. Any internal capture passerby, or transit that is assumed, must be documented and is subject to acceptance by the City.
 - c. For commercial projects which are greater than five (5) acres or generate more than 100 P.M. peak hour trip ends, the applicant shall provide a traffic study which is certified by a Florida Registered professional engineer.
 - d. Where improvement to an existing facility is proposed, and no change in use of the existing facility is being made, the trip generation calculation may reflect only the newly proposed improvement and its use. Where improvement to and/or change in use of an existing facility is proposed the trip generation calculation shall reflect the volume of traffic generated by the existing facility's current and/or new use(s) and the volume of traffic generated by improvements if proposed (i.e. the combined uses).
 - e. For phased developments, calculation of the trip generation traffic volume and traffic impact analysis shall be presented for the completed development, and shall include all proposed phases of development and land uses.
 - f. Where the proposed development lies within one mile of an educational facility or ancillary facility, potentially impacted by changes in traffic volume and where AM trips are germane, both AM and PM traffic counts and impacts must be calculated.
 - g. In determining the impact of a project, the review shall encompass the impact within a minimum one-half mile of the development site. However, the City may require a larger traffic impact area to be studied based on the scale of the project and its traffic generation. In general, the study area shall encompass an area in which the

project contributes three percent (3%) or greater to the adopted LOS service volume.

- h. Any proposed reduction factors for internal capture of trips between and uses of a mixed-use project or for passerby trips shall be provided by the applicant and considered by the department.

12.03.00 Concurrency Determination

1. Within ten business days after receipt of an application, the City shall determine whether the application is complete and exempt.
 - a. If it is determined that the application is not complete, written notice shall be provided to the applicant, by mail or email, specifying the deficiencies. The City shall take no further action on the application unless the deficiencies are remedied.
2. The City shall review the completed application to determine if the proposed development is exempt. If deemed exempt from this section, the City shall issue a Certificate of Exemption to the applicant.
3. Within 45 days following receipt of completed application, the City Administrator or his/her designee shall confirm or deny city staff's determination of capacity and issue a written Concurrency Determination stating whether infrastructure capacity is available to accommodate the proposed project. The determination shall specify the capacity needed for the project.
4. In order to ensure adequate public facilities are available to handle impacts of development, the City shall ensure that prior to the approval of an application for a final development order or permit:
 - a. The necessary facilities and services are in place at the time the permit is issued; or
 - b. The necessary facilities will be in place when the impacts of development occur; or
 - c. The necessary facilities are under construction at the time the permit is issued; or
 - d. The necessary facilities and services are guaranteed in an enforceable development agreement or development order to ensure that the necessary facilities and services will be in place when the impacts of the development occur.
5. If the necessary capacity is available, the determination shall constitute a temporary reservation of that capacity for the project for a period of 30 days. During this temporary reservation period, a Concurrency Certificate shall be issued upon payment of fees as established by the City.
6. If the necessary capacity is available, but action by the City Commission is required for approval of the development, the temporary reservation period shall extend for 30 days following Commission action.
7. If the necessary capacity is not available, the Concurrency Determination shall identify each infrastructure system where capacity is not available and the extent of the deficiency. The applicant may challenge the concurrency determination by presenting substantial, competent evidence that sufficient capacity does exist by virtue of the following:
 - a. The proposed development's impacts will differ from the impacts estimated by the city as a result of special circumstances of that development;

- b. The City's analysis data has an error;
 - c. For Transportation concurrency, the applicant presents evidence through travel speed, distance and time studies that impacted roadway links actually operate at higher levels than indicated by the city. In the event the travel time/distance/time studies are warranted, the city or its agent shall conduct such a study after receiving a fee from the applicant to cover the costs of conducting and analyzing the study.
8. If the necessary capacity is not available, strategies may be used to rectify deficiencies including:
- a. Lowering the LOS for affected facilities through a plan amendment.
 - b. Reduction in scale or impact of proposed development.
 - c. Phased development based on capacity availability.
 - d. Other mitigation strategies presented by the applicant as approved by the City.
9. The city may approve developments in phases to determine whether the necessary public facilities and services will be available concurrent with the impacts of development. Conditions for permitting each phase shall be included in an enforceable development agreement. Calculation of the total need for public facilities and/or services shall be presented for the entire development upon site plan submittal, and shall include all proposed phases of development and land uses. In some cases, construction or acquisition of the necessary total facilities and services may be required in the initial phase of development.

12.04.00 Expiration of Concurrency Certificates

1. The Concurrency Certificate shall expire upon the expiration of the building permit or development order for which the certificate was issued including any extensions, renewals, or subsequent development orders for the same project.
2. Where not otherwise provided a Concurrency Certificate shall expire after one year.

12.05.00 Infrastructure Capacity Reporting and Monitoring

The City shall work with the agencies or parties responsible for service capacity on a periodic bases to evaluate development permitting activity and determine existing conditions with regard to available capacity for the infrastructure facilities subject to concurrency. A report will be developed which shall specify the capacity used since previous evaluation and shall evaluate and project the capacity available and time remaining until available infrastructure capacity is exhausted. The report shall include any vested capacity as well as that for which development permits have been issued.