

## **Article 3 – Concurrency Management**

### **Sec. 3-1. Purpose.**

It is the intent of the City Commission that public facilities and services needed to support development shall be available concurrent with the impacts of such development. The purpose of this Article is to provide guidelines and procedures necessary to fulfill this intent and to meet the concurrency requirements of state law.

### **Sec. 3-2. Applicability.**

Development orders shall not be issued unless public facilities and services, which meet or exceed the adopted level of service standards are available concurrent with the impacts of the development. Unless public facilities and services, which meet or exceed such standards are available at the time the development order is issued, development orders shall be specifically conditioned upon availability of the public facilities and services necessary to serve the proposed development. Public facility and service availability shall be deemed sufficient if the public facilities and services for a development are phased, or the development is phased, so that the public facilities and those related services which are deemed necessary by the City to operate the facilities necessitated by that development are available and meet the adopted level of service standards concurrent with the impacts of the development. Phased facilities and services to be provided by the City shall be included in and consistent with the capital improvements element of the Comprehensive Plan. Public facilities and services to be provided by the developer shall be guaranteed in an enforceable development agreement, including development agreements pursuant to subsection 2-5.6 of this Code. Development orders will not be issued that result in a reduction of the level of services for the affected public facilities below the level of services provided in the Comprehensive Plan.

#### **3-2.1. Minimum requirements for concurrency.**

For the purpose of determining if concurrency requirements are being met the City shall use the minimum requirements set forth in Section 10. Concurrency Management of the Comprehensive Plan, as a general guideline.

### **Sec. 3-3. Level of service standards.**

#### **3-3.1. Public purpose.**

Level of service standards shall be established and maintained for ensuring that adequate facility capacity will be provided for future development and for purposes of issuing development orders, pursuant to F.S. § 163.3202(2)(g). The City shall establish and maintain a level of service standard for each public facility located within the area for which the City has authority to issue development orders. Such level of service standards shall be set for each individual facility or facility type and not on a system wide

basis.

### 3-3.2. Public facilities and services.

Public facilities and services are those associated with: (1) transportation systems or facilities; (2) sewer systems or facilities; (3) solid waste systems or facilities; (4) drainage systems or facilities; (5) potable water systems or facilities; (6) parks and recreation systems or facilities; and (7) school system or facilities.

### 3-3.3. Level of service standards.

The following level of service standards shall be used to evaluate available facility capacity and as a basis for issuance of development orders.

1. Transportation systems or facilities. Levels of service for transportation systems or facilities shall be based upon the functional classifications of roadways, and volume/capacity standards used by the Florida Department of Transportation.

Functional Classification Urban	Peak Hour Level of Service
Expressway	C
Urban Principal Arterial	D
Urban Minor Arterial	D
Urban Collector	D
County Roads	D
Local Street	D

2. Sewer systems or facilities.
  - a. The City shall use sewage flows specified in table II, "Estimated Domestic Sewage Flows," found in section 64E-6.008, F.A.C., for purposes of estimating sewage generated by development activities. These estimates shall be used to make certain that available facility capacity exists to serve the proposed development concurrent with the impacts of such development, and to maintain a cumulative allocation of facility capacity dedicated for approved developments.
  - b. The City shall use 80% of permitted sewage treatment capacity or 2.4 million gallons per day, based on sustained average monthly flows, as the threshold for denying development permits for compliance with

concurrency requirements.

- c. For areas which are not served by central sewer, the level of service shall be presumed adequate when the developer receives an on-site sewage treatment permit pursuant to Chapter 64E-6, F.A.C.
3. Solid waste systems or facilities. The City shall use 5.06 pounds of solid waste per person per day to evaluate potential impacts of proposed development and as a basis for issuing development permits.
  4. Drainage systems or facilities. The City shall use the following standards for purposes of evaluating impacts from proposed development and for issuing development permits.

The level of service standards for water quantity and water quality for the 25-year, 24-hour storm event are as follows:

- a. Water quantity. Post-development runoff from the site shall not exceed peak predevelopment runoff rates.
- b. Water quality. Stormwater treatment shall be provided for a volume equivalent to 2 inches of depth over the entire site or the runoff from the first one inch of rainfall on the entire site in accordance with Chapter 62-25, F.A.C., in order to meet receiving water quality standards in Chapter 62-302, section 62-302.500, F.A.C.

These water quality and quantity standards shall apply to all new development and redevelopment, regardless of project size.

5. Potable water systems or facilities. The City shall use 175 gallons per person per day delivered at a pressure of 40 pounds per square inch to evaluate potential impacts of proposed development and for issuing development permits.

For areas using private wells, the level of service shall be presumed adequate when the provisions of Chapter 40A-3, F.A.C., or 17-532, F.A.C., as applicable, are met.

6. Parks and recreation systems or facilities. The City shall use the following standards for evaluating potential impacts from proposed development and for issuing development permits.

2 acres per 1,000 population

7. School systems or facilities. The City shall use the following standards for evaluating potential impacts from proposed development and for issuing development permits.

Type of School	Level of Service
Elementary	107% of DOE Permanent FISH Capacity
Middle	100% of DOE Permanent FISH Capacity
High	90% of DOE Total Satisfactory Student Stations
Magnet/Special Education	100% of DOE Permanent FISH Capacity

**3-3.4. Levels of service to be maintained.**

1. All applications for development approval shall demonstrate that the proposed development does not degrade adopted level of service standards.
2. Development orders may be issued for proposed development which exceeds adopted levels of service only when the terms and conditions of such exceedances are consistent with Section 10. Concurrency Management of the Comprehensive Plan.
3. Notwithstanding the foregoing, levels of service may be temporarily degraded during actual construction of new facilities, if upon completion of construction the prescribed levels of service will be met.
4. The City Commission may temporarily waive the foregoing requirements as they relate to levels of service for parks and recreation systems or facilities if the sites and facilities needed to maintain levels of service are included in the capital improvements element of the Comprehensive Plan, and conform to the provisions of paragraph 2 of this subsection.

**3-3.5. Revisions or adjustments.**

The levels of service specified in the Comprehensive Plan and in subsection 3-3.3 may be revised or adjusted to accommodate changing conditions and circumstances. Revisions or adjustments to levels of service shall be based upon accurate and reliable data or information, and shall be considered a plan amendment subject to the amendment procedures specified in the Comprehensive Plan

## **Sec. 3-4. Adequate capacity of public facilities.**

For purposes of issuing development orders the available capacity of public facilities and services shall be determined as prescribed in this section.

### **3-4.1. Presumption of adequate capacity.**

Adequate capacity shall be presumed to be available for the approval of development orders until such time as conditions and circumstances indicate otherwise. Determination of such conditions and circumstances shall be triggered by certain thresholds which demonstrate that public facilities and services are nearing available capacity. Development orders shall not be denied on the basis of concurrency until such time as capacity thresholds are reached and maintained. Presumption of adequate capacity as a basis of meeting concurrency requirements shall not relieve the responsibility of the developer from compliance with other provisions of this Code, or the responsibility of the City for maintaining records which indicate the cumulative impacts of development orders.

### **3-4.2. Capacity thresholds.**

The City shall establish, and revise as necessary, capacity threshold standards to be used for presumptions of adequate capacity. Thresholds shall be indicated for transportation systems or facilities, sewer systems or facilities, solid waste systems or facilities, drainage systems or facilities, potable water systems or facilities, and parks and recreation systems or facilities. The list of capacity threshold standards shall be as specified in subsection 3-4.3 of this Code.

### **3-4.3. Capacity threshold standards.**

Adequate capacity shall be presumed to be available until such time as the following standards are met or exceeded.

1. Roadways. Capacity thresholds will be based on FDOT's generalized Level of Service tables or other City approved methods.
2. Sewer. Monthly sewage flows, based on a three-month average, reach 90 percent of permitted capacity as specified in subsection 3-3.3, paragraph 2.
3. Solid waste. Average daily tons of solid waste collected in the City reaches 10 percent of the disposal capacity of Jackson County solid waste disposal facilities.
4. Drainage. Proposed development is in compliance with subsection 3-3.3, paragraph 4 of this Code.

5. Potable water. Average daily consumption (million gallons per day) of potable water in the City reaches 90 percent of available capacity, or delivery pressure (pounds per square inch, psi) falls below 30 psi on a Citywide basis.
6. Recreation. Population demand for recreation sites and facilities, based on annual population estimates, reaches 95 percent of availability for such sites and facilities.
7. School. Elementary schools are 107% of DOE permanent FISH capacity; middle schools are 100% of DOE permanent FISH capacity; high schools are 90% of DOE total satisfactory student stations; and/or Magnet/Special Education schools are 100% of DOE permanent FISH capacity.
8. Population. All capacity thresholds will be immediately reevaluated in the event population growth exceeds ten percent during any one year. Determination of population growth shall be based upon annual estimates of population published by the Bureau of Economics and Business Research (BEBR), University of Florida.

#### **3-4.4. Termination of presumption of adequate capacity.**

Presumption of adequate capacity for purposes of issuing development orders shall be terminated when it has been determined by the City that the capacity thresholds have been met or exceeded. At that time, the City Manager shall issue a statement to the City Clerk, the Planning Board, and the City Commission which indicates that all applications for development approval will be denied until such time as adequate capacity becomes available, or conditioned upon meeting the concurrency management requirements set forth in this Article and the Comprehensive Plan.

#### **Sec. 3-5. Concurrency management system.**

Notwithstanding the provisions of section 3-4, the City shall evaluate impacts upon public facilities and services caused by proposed development for each application for development approval. Impacts caused by proposed development for which adequate capacity is presumed subject to subsection 3-4.1 shall be recorded by the City and added to a cumulative total of allotted capacity for purposes of determining when capacity thresholds have been met.

The system for determination of potential impacts on public facilities caused by proposed development for purposes of recording a cumulative total of allocated capacity, and for meeting concurrency requirements when capacity thresholds have been met, shall be as described in subsection 3-5.1.

### **3-5.1. Determination of available capacity.**

Available capacity shall be determined for public facilities and services as follows.

#### **1. Roadways.**

The Director shall follow the steps for roadway capacity analysis outlined in section 3-6 of this Article, which establishes the methodology, procedures and requirements for submitting a transportation concurrency analysis in the City of Marianna and outlines steps for review and determination of available capacity, and impact on the adopted level of service standards for concurrency roadway facilities.

#### **2. Sewer.**

- a. The City shall maintain an estimate of average daily sewage flow which shall be updated each month. Sewage flow estimates will be derived from an average of monthly sewage flows for the three-month period immediately preceding the month for which the estimate is being made. Average sewage flows shall be determined from self-monitoring operational reports required by Chapter 62-601, F.A.C., as specified in section 62-600.740, F.A.C., or equivalent.
- b. Estimated average daily flows derived from the average monthly sewage flows shall be used as the basis to determine if capacity thresholds or level of service standards will be met or exceeded. Average daily sewage flow will be estimated for all proposed development using the level of service specified in subsection 3-3.3, paragraph 2. Additional sewage flow caused by proposed development shall be added to the estimated monthly sewage flow to determine if adequate capacity is available.
- c. The City shall maintain a cumulative total of permitted sewage flows and shall reduce the City's allocated capacity accordingly on a monthly basis.

#### **3. Solid waste.**

- a. On an annual basis, the City shall identify available solid waste disposal capability which can be provided by Jackson County. This volume shall provide the basis to determine if capacity thresholds or level of service standards will be met or exceeded.
- b. The City shall apply the level of service standard found in subsection 3-3.3, paragraph 3, to estimate volumes of solid waste generated by proposed developments.



4. Drainage.

- a. The City shall require all developers submitting an application for development approval to provide as part of the overall development site plan a drainage and stormwater management plan and erosion and sediment control plan as specified in subsection 4-5.1, paragraph 4; unless exempted by 62-346.051, Florida Administrative Code. At a minimum, such drainage and grading plan shall include: 1) finished topographic contours; 2) impervious surfaces; 3) existing drainage structures; 4) proposed drainage structures; and, 5) proposed stormwater treatment facilities.
- b. Design standards for drainage shall be as specified in subsection 4-5.1, paragraph 4. In addition, no development order shall be issued by the City until the developer has obtained a stormwater permit pursuant to Chapter 62-346, Florida Administrative Code, if applicable, and the developer has a stormwater and erosion control plan approved by the City.
- c. Drainage facilities for the proposed development of a single-family detached or duplex dwelling unit on an individual lot or parcel shall be presumed adequate when: (1) the lot coverage requirements of section 4-1 are met and the site is adequately grassed or landscaped; (2) the proposed development is part of a larger, common plan of development which has had a drainage plan approved by the City; and (3) site modifications do not involve the obstruction or alteration of any drainageway.
- d. Drainage facilities for any development shall be presumed adequate if stormwater runoff from such development is discharged into a permitted stormwater management system.

5. Potable water.

- a. The City shall maintain an estimate of average daily consumption, which shall be updated each month.
- b. Estimated average daily consumption derived from the average monthly estimates shall be used as the basis to determine if capacity thresholds or level of service standards will be met or exceeded. Average daily consumption will be estimated for all proposed development. Additional consumption caused by proposed development shall be added to the estimated monthly sewage flow to determine if adequate capacity is

available.

- c. The City shall apply the level of service standard found in subsection 3-3.3, paragraph 5, to estimate potable water consumption for all proposed development.

6. Recreation.

- a. On an annual basis, the City shall identify public and private recreation sites and facilities available for use by the general public. These sites and facilities shall provide the basis to determine whether capacity thresholds or level of service standards have been met or exceeded.
- b. The City shall apply the level of service standards found in subsection 3-3.3, paragraph 6, to estimate demand for recreation sites and facilities caused by proposed development.

7. School.

- a. Calculate total school facility capacity by adding the capacity (LOS) provided by an existing school facility to the capacity of any planned school facilities programmed to provide relief to that school facility, listed in the first three (3) years of the District Facilities Work Program.
- b. Calculate available school facility capacity by subtracting from the total school facility capacity the sum of:
  - i. Current student enrollment (school facility capacity consumed by preexisting development);
  - ii. The portion of reserved capacity having a valid unexpired certificate of school concurrency from the School Board; and
  - iii. The portion of previously approved development (vested from concurrency) projected to be developed within three (3) years.
- c. Calculate the proposed development's demand for school facility capacity by:
  - i. Applying the student generation multiplier to the proposed development to determine its total demand; and
  - ii. Subtracting a credit for the total district-wide enrollment of magnet school facilities as a percentage of the total district enrollment.

- d. Subtract the proposed development's demand for school facility capacity from the available school permanent facility capacity to determine if there is a deficit. If so, repeat the process to determine if school facility permanent capacity is available in any contiguous CSA as indicated on the adopted CSA map.
- e. If the projected student growth from a residential development causes the adopted LOS to be exceeded in the CSA, an adjacent CSA which is contiguous with and touches the boundary of, the concurrency service areas within which the proposed development is located shall be evaluated for available capacity. However, CSAs shall not be considered contiguous when the CSA is separated by a natural or man-made barrier, such as a river or Interstate roadway, requiring indirect transport through a third CSA or when transport time exceeds the adopted transportation time standard.
  - i. Consistent with Rule 6A-3.0171, Florida Administrative Code, the shift of impact to an adjacent CSA resulting in a total morning or afternoon transportation time of either elementary or secondary students shall not exceed one (1) hour unless a specific finding is made by the School Board that there is no other viable option. The transportation time shall be determined by the School Board transportation routing system and measured from the school to the center of the subject parcel/plat in the amendment application, along the most direct improved public roadway free from major hazards.
- f. Residential Uses Exempt from the Requirements of School Concurrency. The following residential uses shall be exempt from the requirements of school concurrency:
  - i. All single family lots of record at the time the Public School Facilities Element (PSFE) amendment became effective.
  - ii. Residential site plans that do not create a measurable impact (one whole student or more) are exempt from the requirements of School Concurrency.
  - iii. Any new residential development that has a preliminary plat approval, final subdivision or site plan approval, or the functional equivalent for a site specific development order prior to the adoption date of the Public School Facilities Element amendment;

- iv. Any amendment to a previously approved residential development which does not increase the number of dwelling units or change the type of dwelling units.
  - v. Any age restricted community with no permanent residents under the age of eighteen (18), (a restrictive covenant limiting the age of residents to eighteen (18) and older for at least thirty (30) years shall be required to be recorded in a form approved by the local government with County Clerk of Court). Removal of the restrictive amendment shall be subject to approval of the City and subject to school concurrency review.
  - vi. Any single family residential unit developed under a family homestead allowed by the City's Comprehensive Plan pursuant to Section 163.3179 Florida Statutes; to the extent it does not create a measurable impact.
  - vii. Any adult group housing facility that does not generate students such as homeless shelters, halfway homes, prisons and nursing homes exclusive of employee housing.
- g. In compliance with the availability standards of Section 163.3180(6), Florida Statutes, the City shall not deny development approval due to failure to achieve the adopted LOS for public school facilities when the following occurs:
- i. Adequate school facilities are planned and will be in place or under construction within three (3) years of the development approval.
  - ii. The developer executes a legally binding commitment to provide mitigation proportionate to the demand for public school facilities consistent with the methodology in the Interlocal Agreement for Public School Facility Planning and School Concurrency. Relocatable or portable structures are not acceptable for mitigation.
  - iii. The needed capacity is found available in one or more contiguous school concurrency service areas by the School Board.
- h. Available Capacity Determination. In the event there is available school capacity to support a development, the School Board shall issue a Final School Capacity Availability Determination (FSCAD) so stating. In the

event there is not available school capacity to support a development, the School Board will issue a Preliminary School Capacity Evaluation (PSCAD) and may entertain proportionate share mitigation options. If a mitigation option is acceptable, the School Board and participating parties shall enter into an enforceable and binding agreement with the developer to mitigate the impact from the development through the creation of additional school capacity. Upon execution of the agreement, the School Board will issue a FSCAD.

### **3-5.2. Action upon failure to show available capacity.**

1. The project owner or developer may provide the necessary improvements to maintain level of service standards. In such case the application for development approval shall include appropriate plans for improvements, documentation that such improvements are designed to provide the capacity necessary to achieve or maintain the level of service, and a development agreement guaranteeing the construction, consistent with calculations of capacity above.
2. The proposed project may be altered such that projected level of service is no less than the adopted level of service.
3. Proportionate Share Mitigation for Schools. When the anticipated student impacts from a proposed development cause the adopted LOS to be exceeded, the developer's proportionate share will be based on the number of additional student stations necessary to achieve the established LOS. The methodology for calculating the amount to be paid will be consistent with Section 163.3180(6) Florida Statutes.
  - a. The methodology used to calculate a developer's proportionate share mitigation shall be as follows:

$$\text{Number of New Student Stations Required for Mitigation (By School Type)} = \text{Number of Dwelling Units Generated By Development Proposal} \times \text{Student Generation Multiplier (By School Type)} - \text{Number of Available Student Stations}$$

$$\text{Cost of Proportionate Share Mitigation} = \text{Number of New Student Stations Required for Mitigation (By School Type)} \times \text{Cost per Student Station as defined in the interlocal agreement (by School Type)}.$$

- b. Following a determination of insufficient capacity, the School Board or School Board's designee will provide the Developer and the City with a written Preliminary School Capacity Evaluation (PSCAD) notice. The notice to applicant shall advise of a one hundred twenty day (120)-day

period starting from the issue date of the PSCAD notice to negotiate with the School Board in an effort to mitigate the impact from the development through the creation of additional capacity. Developer may by written notice to the School Board terminate the negotiation period earlier. Provision of portable/relocatables is not an acceptable mitigation option. Upon identification and acceptance of a proposed mitigation option deemed financially feasible by the School Board, the developer shall enter into a binding and enforceable development agreement with the School Board and the City. Upon execution of the agreement the School Board will issue a Final School Capacity Availability Determination (FSCAD).

- i. A mitigation contribution provided by a developer to offset the impact of a residential development must be directed by the School Board toward a school capacity project identified (or approved for inclusion) in the School Board's Five-Year District Facilities Work Plan. Capacity enhancing projects identified within the first three (3) years of the Five-Year District Facilities Work Plan shall be considered as total school facility capacity.
  - ii. If capacity projects are planned in years four (4) or five (5) of the School Board's Five-Year District Facilities Work Plan within the same CSA as the proposed residential development, the developer may pay his proportionate share to mitigate the proposed development in accordance with the formula provided in the adopted Interlocal Agreement for Public School Facility Planning and School Concurrency and the School District shall move the project(s) into the first three years of the Five-Year District Facilities Work Plan.
  - iii. If a capacity project does not exist in the Five-Year District Facilities Work Plan, the developer may petition the School Board to add a capacity project to satisfy the impacts from a proposed residential development if it is funded through the developer's proportionate share mitigation contributions. The School District is not bound to approve this petition if it finds the local School District cannot support the project.
- c. School capacity mitigation options may include, but are not limited to:
- i. Contribution of or payment for acquisition of new or expanded school sites; or

- ii. Construction or expansion of, or payment for, permanent school facilities; or
- iii. Mitigation Banking.

Relocatable and modular facilities are not acceptable as proportionate share mitigation.

- d. For mitigation measures (c.i), (c.ii) and (c.iii) above, the estimated cost to construct the mitigating capacity will reflect the estimated future construction costs at the time of the anticipated construction.
- e. A proportionate share mitigation contribution shall not be subsequently amended or refunded after final site plan or plat approval to reflect a reduction in planned or constructed residential density.
- f. Any proportionate share mitigation must be directed by the School Board toward a school capacity improvement identified in the School Board's Five-Year District Facilities Work Plan.
- g. Upon conclusion of the one hundred twenty (120) day negotiation period or earlier if a mitigation agreement is executed, a Final School Capacity Availability Determination (FSCAD) shall be issued. If mitigation is agreed to, the School Board shall indicate its support for approving the development subject to the written agreement including those mitigation measures agreed to by the City, Developer and the School Board. Prior to site plan approval, final subdivision approval or the functional equivalent, the mitigation measures shall be memorialized in an enforceable and binding agreement with the City, the School Board and the Developer that specifically details mitigation provisions to be paid for by the developer and the relevant terms and conditions. If mitigation is not agreed to, the FSCAD shall detail why any mitigation proposals were rejected and why the development is not in compliance with school concurrency requirements. A FSCAD constitutes final agency action by the School Board for purposes of Chapter 120, F.S.
- h. Appeal Process. A person substantially affected by a School Board's adequate capacity determination made as a part of the School Concurrency Process may appeal such determination through the process provided in Chapter 120, F.S.

### **3-5.3. Burden of showing compliance on developer.**

The burden of showing compliance with level of service requirements shall be upon the developer. All applications for development approval shall provide sufficient information showing compliance with these standards.

#### **3-5.4. Initial determination of concurrency.**

The initial determination of concurrency occurs during the review of the application for development approval, and shall include compliance with the level of service standards adopted by the City.

### **Sec. 3-6. Transportation concurrency management system.**

#### **3-6.1. Purpose.**

The purpose of the transportation concurrency management system (CMS) portion of this Article is to enable the City of Marianna to identify and account for the collective transportation impacts of new development on the City roadway system and to provide information allowing a concurrency determination to be made on each roadway segment in the transportation concurrency roadway network. In accordance with Chapter 163.3180(5) F.S., the premise of concurrency is that the public facilities will be provided in order to achieve and maintain the adopted level of service standard. Consistent with the adopted Traffic Circulation Element of the City of Marianna Comprehensive Plan, it is the intent of the transportation concurrency management system portion of this Article to establish an equitable and consistent methodology that identifies procedures and requirements for submitting a transportation concurrency analysis in the City of Marianna, which measures the potential impact of a development upon the adopted minimum acceptable level of service (LOS) standard for concurrency roadway facilities.

#### **3-6.2. Minimum requirements.**

Pursuant to the City of Marianna Comprehensive Plan Traffic Circulation Element, the methodology and procedures for a transportation concurrency analysis shall apply to new non-residential development and residential subdivisions within the City of Marianna unless an exemption is granted based on the development's consistency with the City's Comprehensive Plan and the project that promotes public transportation, and/or is located within an area designated in the plan for urban refill, urban development or downtown revitalization consistent with 163.3180(1)(f)3, F.S. It will be the responsibility of the applicant to demonstrate to the City of Marianna that: (1) the adopted level of service (LOS) standard on the transportation concurrency roadway network within the study area will be maintained without mitigation; or (2) the adopted level of service (LOS) standard on the transportation concurrency roadway network within the study area will be maintained with a specified and City approved mitigation plan.



- (A) Multi-phased and single-phased non-residential facilities and services to be provided by the City shall be included in and consistent with the capital improvements element of the Comprehensive Plan. Public facilities and services to be provided by the developer shall be guaranteed in an enforceable development agreement, including development agreements pursuant to subsection 2-5.6 of this Code. The following shall apply to multi-phased and single-phased non-residential developments and residential subdivisions within the City of Marianna:
- (1) First application. A transportation concurrency analysis with a City issued certificate of transportation concurrency shall remain valid and in effect subject to the terms and conditions of the associated final development order, unless a different term is agreed to by the City and specified in a development agreement.
  - (2) Subsequent applications. Subsequent development phases, not included in the first application as described in subsection (A) above seeking concurrency determination shall be required to provide an updated transportation concurrency analysis with current data.
  - (3) Amended applications. Amendments to single-phase or multi-phase approved development orders, which do not increase the net p.m. peak hour trips entering and exiting on any roadway segment in the transportation concurrency network or intersection shall not be subject to the methodology and procedures of this Article. For the purposes of this determination, the trip generation rates, internal capture and pass-by rates (if applicable) shall be updated to the current standard for both the approved and proposed land uses. If an increase in net external p.m. peak hour trips shall be subject to additional transportation concurrency review. All amended applications subject to new transportation concurrency review shall be required to submit roadway segment capacity and intersection analysis prescribed under subsections 3-6.10 and 3-16.11, respectively.
  - (4) Expired development orders. If a development order has been determined to be expired, then any subsequent applications for a development approval will be subject to transportation concurrency review.
- (B) Redevelopment projects. To encourage infill and redevelopment, proposed projects that are the subject of a redevelopment shall be exempt from transportation concurrency review for up to 110 percent of the traffic generated by the immediately preceding existing development.

This exemption shall be limited to 100 percent if the existing plus committed traffic demand on the directly accessed roadway exceeds 110 percent of the maximum service volume capacity at the adopted level of service standard as identified in the City of Marianna's Transportation Concurrency Management System, or if the directly accessed roadway is a designated primary hurricane evacuation route.

To qualify as a redevelopment project, the immediately preceding existing development must have been active, operational or occupied within 24 months prior to the filing for a concurrency review for this provision to apply. Active, operational or occupied status shall be based on at least one of the following criteria:

- (a) A valid unexpired certificate of occupancy for the premises;
- (b) Maintained utility connections and/or service;
- (c) Active or continued marketing of the property;
- (d) Ongoing legal proceedings related to the subject property (i.e. change of ownership, foreclosures, bankruptcies, land use amendments, etc.); or
- (e) The owner/applicant is granted an extension by the Marianna City Commission or its designee.

Vested rights. Notwithstanding the provisions of Article 3 to the contrary, the requirements of Article 3 shall not apply in any manner to impair vested rights established pursuant to Florida law, to the extent that any land development project, or portion thereof, is vested against the requirements of Article 3.

Inter-local agreements. Jackson County may, with the consent of the Marianna City Commission, enter into an inter-local agreement with the City Commission whereby Jackson County, by a concurrency management ordinance, implements the methodologies and procedures in Article III in their respective land development approval process. The agreeing Jackson County shall be responsible for maintaining its own concurrency management system (CMS) and for reviewing transportation concurrency for land development projects within its jurisdiction. The agreement and ordinance shall ensure that all development is subject to the methodologies and procedures in Article III, and that the data is forwarded to the City of Marianna Municipal Development Department.

Pursuant to Chapter 163.3180(5)(g), F.S., in establishing adequate level of service standards for any arterial roads, or collector roads as appropriate, which traverse multiple jurisdictions, local governments are encouraged to coordinate with adjacent local governments for the purpose of using common methodologies for measuring impacts on transportation facilities. To implement the concurrency management system, both the City of Marianna and Jackson County shall use professionally accepted methodologies for measuring impacts on transportation facilities. Coordination with Jackson County is encouraged for the purpose of using common methodologies for measuring impacts and implementing concurrency management within the transportation network.

- (C) In respect to arterials and collectors which traverse the City of Marianna, the City shall use the same professionally accepted methodologies for measuring impacts on City transportation facilities as on state and county roadways. The City will coordinate with county and state governments for the purpose of implementation.
- (D) Transportation concurrency review process.
  - (1) Development review and approval authority. Transportation concurrency review and approval authority of a proposed land development project shall be subject to, and consistent with, applicable procedures pursuant to Article II.
  - (2) Preliminary transportation concurrency review. Upon submittal of a completed application for a development order, the City will make a preliminary assessment of transportation concurrency.
    - (a) If the preliminary assessment of transportation concurrency finds a lack of available capacity on one or more roadways in the transportation concurrency network, the applicant may exercise one or more of the following options:
      - (i) Rescind the application;
      - (ii) Phase the land development project and seek phase approval as roadway capacity becomes available sufficient to support the proposed land development project;
      - (iii) Postpone the land development project until roadway capacity becomes available;

- (iv) Revise the transportation concurrency analysis as directed by City staff, or otherwise reduce the size of the project to fit within the roadway capacity that is available; or
    - (v) Pursue and enter into a development agreement that specifically addresses a mitigation plan for the identified roadway capacity deficiencies. This may include participation in the proportionate fair-share program as provided for in section 3-7.
  - (b) If the preliminary assessment of transportation concurrency for the original submittal, or a resubmitted application as described under subsection 3-6.2(D)(2), favorably determines that sufficient roadway capacity exists to support the proposed project, then the City shall, pending the approval and issuance of a final development order:
    - (i) Issue a preliminary certificate of transportation concurrency to be valid for 90 days; and
    - (ii) Temporarily reserve roadway capacity under the preliminary certificate of transportation concurrency for the proposed project's p.m. peak hour traffic.
  - (c) Subject to the approval of the City and payment of a renewal fee (per the City's review fee schedule), an applicant may exercise a one-time option to renew the preliminary certificate of transportation concurrency for an additional 60 days.
  - (d) If an applicant submits an application for a transportation mitigation proportionate fair-share agreement, consistent with subsection 3-7.6, then a preliminary certificate of transportation concurrency shall be issued and will remain valid while the application is under review.
- (E) Certificate of transportation concurrency.
  - (1) Applicability. A certificate of transportation concurrency, which may or may not include conditions, shall apply to a land development project, as described in subsection 3-6.2, with specified land use(s), density(ies), and intensity(ies). The issuance of a certificate of transportation concurrency does not equate to a development order, nor does it relieve an applicant from complying with all requirements necessary to obtain a development order and it does not afford an applicant the right to obtain subsequent

development orders for the same land development project. A City issued certificate of transportation concurrency does nothing more than to certify that the land development project, as specified, satisfies the applicable stated goals, objectives and policies set forth in the transportation and circulation element of the adopted City of Marianna Comprehensive Plan.

- (2) Capacity reservation. A certificate of transportation concurrency, which may or may not include conditions, shall provide certification that roadway capacity has been reserved adequate to accommodate the proposed new land development project for the term of the certificate. If the certificate applies to one or more phases or a multi-phased development, the capacity reservation shall be assignable to other contiguous phases within the same land development project, but only if the identified impacted facilities impacted are the same. The capacity reservation shall not be assignable to non-contiguous phases of the same multi-phased land development project nor to other land development projects on different sites. The reservation of capacity for land development projects subject to transportation concurrency review shall occur on a first-come, first-served basis.
- (3) Expiration. A certificate of transportation concurrency shall have a term equivalent to the terms and conditions of the associated final development order, unless a different term is agreed to by the City and approved by the City Commission.
- (4) Forfeiture of capacity reservation. For any land development project subject to transportation concurrency review, the amount of roadway capacity reserved and the scheduled build-out date for each phase shall be specified in the certificate of transportation concurrency. Any phase capacity not utilized prior to the scheduled phase build-out date shall be forfeited back to the City for use by subsequent applicants unless the scheduled phase build-out date is extended under amended terms and conditions of the final development order.
- (5) Payment of impact fees. At which time the City may adopt an impact fee ordinance pertaining to transportation facilities. Applicants for a land development project subsequently shall pay all applicable impact fees related to roadway facilities prior to the issuance of a certificate of transportation concurrency.
- (6) Payments for transportation mitigation. For land development projects that require improvements to one or more transportation concurrency facilities in order to mitigate existing deficiencies or deficiencies created by the applicable land development project, a development agreement

shall be executed. The applicant shall pay the applicable proportionate fair-share cost of all transportation infrastructure improvements pursuant to section 3-7 less any applicable impact fees in accordance with subsection 3-6.2(E)(5) required to satisfy concurrency for the development project prior to the issuance of a certificate of transportation concurrency.

(F) Final development orders.

- (1) Final concurrency review. Prior to approval of a final development order for a land development project as described in subsection 3-6.2, the City shall:
  - (a) Perform a final concurrency review to ensure that the pending agreed upon development parameters satisfy the conditions for a favorable transportation concurrency determination.
  - (b) If subsection 3-6.2(F)(1) is satisfied, reassign the temporarily reserved project traffic to the City's concurrency-approved committed demand contained in the transportation concurrency management system (CMS).
  - (c) Calculate and collect any applicable payments toward the proportionate fair-share program pursuant to a proportionate fair-share agreement. The City of Marianna reserves the right to deny approval of a development order for which improvements needed to meet concurrency requirements cannot be funded by the developer.
  - (d) Assess and collect any applicable impact fees subject to such time the City may adopt an impact fee ordinance pertaining to transportation facilities.
  - (e) If subsections 3-6.2(F)(1)(a-d) are satisfied, issue a certificate of transportation concurrency.
- (2) Project development changes. A new review for a transportation concurrency determination is not required for any subsequent sequential final development orders for a land development project with a valid certificate of concurrency unless the land use(s), density(ies), or intensity(ies) of the land development project has (have) changed.

### **3-6.3. Level of service standards.**

- (A) The minimum level of service standards for a transportation concurrency determination shall be consistent with the Traffic Circulation Element of the City of Marianna Comprehensive Plan and subsection 3-3.3 of this Article.
- (B) The City shall consult with DOT when proposed development plans directly connect to state facilities or when the development accesses them via local and / or private roads. Additionally, if the development has a significant impact (as defined in subsection 3-6.10) to I-10 then the City shall consult with FDOT.
- (C) When two or more roadways with differing classifications or adopted level of service (LOS) standards intersect and an intersection analysis is required, the lower LOS standard shall govern the intersection.

### **3-6.4. Planned and programmed improvements.**

The City shall meet the following standards to satisfy concurrency for transportation facilities:

- (A) At the time a development order is issued, the necessary roadway facilities to support the new land development project are to be in place or under construction; or
- (B) A development order may be issued subject to the conditions that the necessary roadway facilities and services needed to serve the new development are scheduled to be in place or under actual construction not more than three years after issuance of a certificate of occupancy. The schedule of capital improvements may recognize and include transportation projects in the transportation concurrency management system within the first three years of FDOT's adopted five-year work program; or the City of Marianna Capital Improvements Plan (CIP) as referenced in subsection 3-6.10(C)(2)(c); or
- (C) A planned roadway improvement may be included as part of the transportation concurrency network if it is scheduled for completion prior to the initial date of project impact on the roadway, if such roadway improvement is to be completed pursuant to an enforceable development agreement or a binding executed agreement.

### **3-6.5. Transportation concurrency database management.**

The City shall be the custodian of the data used to maintain and update the transportation concurrency management system (CMS). The data to be maintained and monitored include the following:

- (A) Transportation concurrency network traffic count data. For each roadway segment in the transportation concurrency network, as identified annually in the City of Marianna Levels of Service on State Roads report prepared by the Apalachee Regional Planning Council (ARPC), the City shall maintain and update, on an annual basis, the two-way peak hour peak season traffic volume data to be used as a baseline for transportation concurrency determinations. The locations of the traffic count stations will include all temporary (portable) and permanent stations maintained and operated by the Florida Department of Transportation (FDOT). An applicant may be required to supplement the City's traffic count data where needed or for locations where recent or adequate data are not readily available.
- (B) Transportation concurrency management system database. For each roadway segment in the transportation concurrency network, the City shall monitor, maintain and update, on a continual basis, a database of the Citywide transportation concurrency conditions.
- (C) Transportation concurrency management system database maintenance.
  - (1) In coordination with the Apalachee Regional Planning Council and the Florida Department of Transportation, this information may include, but is not limited to:
    - (i) New p.m. peak hour traffic volume counts or turning movement counts.
    - (ii) Changes in the schedule for programmed improvements.
    - (iii) Changes in signal timings and phasing.
    - (iv) Any other actions affecting roadway capacity and traffic circulation on the transportation concurrency network.
  - (2) Based on the information maintained pursuant to subsection 3-6.5(B), City staff will update the transportation concurrency management system (CMS) database to account for any changes to the available capacity.
  - (3) Pursuant to subsection 3-6.2(F)(1)(b), City staff will incorporate updates to the committed demand on affected roadway segments in the transportation concurrency network.
  - (4) City staff will incorporate any updates to the CMS by subtracting trips from the committed demand due to the build-out of vested, exempt or



concurrency approved projects. In addition, City staff will incorporate any changes in committed demand due to the withdrawal of a concurrency project.

- (5) The roadways to be included in the transportation concurrency network and the data contained in the transportation concurrency management system database may be updated by City staff as necessary.

### **3-6.6. Levels of transportation concurrency review.**

- (A) De Minimis Developments (projects that have a negligible or insignificant impact on the transportation roadway network.)

- (1) The impact of a single-family home on an existing lot will constitute a de minimis impact on all roadways regardless of the level of deficiency of the roadway.
- (2) Consistent with the City of Marianna Comprehensive Plan Traffic Circulation Element, residential developments of nine or fewer dwelling units would not be subject to transportation concurrency review. Residential developments of this size will be considered to have a negligible impact on the transportation concurrency network.

- (B) Development within the DISTA

- (1) Developments located within the DISTA shall be exempt from transportation concurrency. The exemption from traditional transportation concurrency is aimed to promote urban infill and redevelopment where opportunities for multi-modal transportation exist.
- (2) Development / redevelopment projects located within the DISTA shall address their transportation impacts and mitigation through alternative means. This means alternative methods will be examined and considered instead of the typical roadway widening and automatic capacity enhancing improvement projects consistent with the following conditions:
  - Development/redevelopment within the DISTA shall mitigate transportation impacts through mechanisms supporting multi-modal objectives and policies.
  - Mitigation measure(s) shall be in proportion to the transportation impacts.
  - Mitigating measure(s) shall advance the goals of the DISTA.
  - Mitigation measure(s) may include, but not be limited to the following:

- Participation in a transit pass program for employees, van pooling and/or ride sharing programs
  - Pedestrian Improvements
  - Bus Shelter/Transit Stop Improvements
  - Bicycle Improvements
  - Lighting Improvements
  - Connectivity Improvements
  - Streetscape Improvements
  - Any other measures which increase mobility options and inter-modal connections as may be approved by the City
- (3) Cost estimates will be required from the applicant for these improvements. Once verified by City Staff, these values will be used to determine the mitigating measure(s).
- (4) Projects may have impacts outside of the DISTA and those improvements will still be required. These measures will be consistent with the policies to mitigate the transportation impacts of the project and further the goals of promoting economic revitalization and community redevelopment.
- (C) Small projects.
- (1) Developments whose p.m. peak hour trip generation is estimated to be 50 trips or less constitute small projects.
- (2) The traffic analysis for small projects may either be conducted by planning staff (based on the project parameters as provided by the applicant) or may be provided by the applicant. The applicant has the option of providing the traffic analysis either in lieu of having an analysis conducted by planning staff or to refute the findings of a traffic analysis which has been conducted by planning staff. Any traffic analysis submitted by the applicant must be conducted pursuant to the requirements of subsection 3-6.6(B).
- (D) Developments requiring a transportation concurrency analysis.
- (1) Consistent with the City of Marianna Comprehensive Plan Traffic Circulation Element and section 3-6.2 of this Article, new nonresidential development and residential developments generating more than 50 p.m. peak hour trips shall be required to submit a transportation concurrency analysis (referred to in the City of Marianna Comprehensive Plan as a traffic impact analysis) quantifying the proposed development's impact on the surrounding collector and arterial roads and outlining the steps to be taken to prevent the level of service from degrading below the adopted

LOS standard.

- (2) As a part of the pre-application conference, the applicant may present the City methodologies or strategies for addressing the transportation concurrency requirements. All methodologies for addressing transportation concurrency are subject to the review and approval of the City.
- (3) A transportation concurrency analysis must satisfy the following submission requirements to be reviewed for a transportation concurrency determination.
  - (a) Four copies of the completed transportation concurrency analysis must be submitted to the City at the time of development order application submittal.
  - (b) The format of the transportation concurrency analysis must contain the elements specified in subsection 3-6.6(B)(5).
  - (c) A transportation concurrency analysis must be prepared and submitted by an individual with responsible transportation engineering and/or transportation planning experience. The individual must be either a Florida certified professional engineer (P.E.), or certified through the American Institute of Certified Planners (A.I.C.P.) and be acting as a designated representative of the applicant.
- (4) The City shall determine if all required data submitted for a transportation concurrency analysis is sufficient and acceptable.
- (5) To facilitate the transportation concurrency review process an applicant submitting a transportation concurrency analysis will be required to submit a report containing the following elements:
  - (a) Letter of transmittal addressed to the City of Marianna Municipal Development Department.
  - (b) Title page, table of contents, list of exhibits (including figures and maps) and list of tables.
  - (c) Introduction and executive summary:
    - (i) The introduction shall include a description of the location (including a general site location map), proposed

development plan, current land uses (if proposal is a redevelopment), current and proposed zoning, phasing schedule and build-out year.

- (ii) The executive summary shall include a concise summary of the study purpose, conclusions, and recommendations. This section of the report shall not contain detailed technical information.
- (d) Proposed land development plan. The proposed land uses shall be identified by land use type with the intensity expressed in units. This information shall be submitted for each phase with the build-out year for each phase identified. In addition, a site plan showing internal traffic circulation shall be provided in each phase.
- (e) Study area. The methodology criteria for establishing the study area for determining the roadway segments in the transportation concurrency network that shall be included in a transportation concurrency analysis are identified in subsection 3-6.7.
- (f) Existing p.m. peak hour traffic volume conditions. An inventory of existing p.m. peak hour traffic volumes on all roadway segments in the transportation concurrency network is maintained by the City of Marianna. The information contained in this database for existing conditions, as well as data for committed project demand, shall be used as the base traffic conditions for all roadway segments identified in the study area.
- (g) Estimate of site-generated traffic. A p.m. peak hour trip generation analysis shall be provided based on the criteria detailed in subsection 3-6.8.
- (h) Project trip distribution and assignment. The required information to be provided for project trip distribution and assignment is detailed in subsection 3-6.9.
- (i) Roadway segment analysis. An evaluation of p.m. peak hour project traffic impacts shall be provided for each segment in the transportation concurrency network determined to be within the project study area. Criteria for conducting the roadway segment analysis are specified in subsection 3-6.10.
- (j) Intersection operations analysis. Based on criteria in subsection 3-6.11, analyses will be provided, if applicable, addressing

intersection level of service and safety issues. Based on the type of development proposed, the City may require that additional time periods beyond the p.m. peak hour conditions be analyzed. Whether or not other time periods will need to be analyzed will be determined at the pre-application conference.

- (k) Mitigation plan. For any roadway segment or intersection level of service deficiency identified in the roadway segment analysis and/or the intersection operations analyses, a mitigation plan shall be provided identifying the strategy(ies) for addressing each deficiency. These strategies may be addressed through the transportation mitigation proportionate fair-share program as specified in section 3-7.
- (l) Site circulation and access management. For each site access point onto a roadway in the transportation concurrency network, in accordance with subsection 3-6.12, an analysis shall be provided addressing driveway separation, turn lane requirements, adequate site distance requirements, and minimum driveway throat length.
- (m) Appendices. Based on the analyses required, the applicant shall provide the following data (where applicable):
  - i. Traffic count data summaries and raw data.
  - ii. Intersection capacity analysis worksheets.
  - iii. Arterial level of service (LOS) analysis worksheets.
  - iv. Other applicable traffic analysis worksheets.

### **3-6.7. Traffic impact study area.**

The following procedure will be used to determine the study area (area of influence) for a transportation concurrency analysis.

- (A) At a minimum the impacts of p.m. peak hour net external project traffic shall be assigned to all roadway segments in the transportation concurrency network (in accordance with subsection 3-6.9) that are within a driving radius of 0.25 miles each access point of the proposed project.
- (B) In addition to the criteria in subsection 3-6.7(A), the impacts of p.m. peak hour net external project traffic shall be assigned to all roadway segments in the Transportation Concurrency Network (in accordance with subsection 3-6.9)

located outside the 0.25 mile driving radius on which project trips are equal to or greater than three percent of the maximum service volume at the adopted level of service (LOS) standard.

- (C) The study area shall cover one segment beyond the criteria listed in subsection 3-6.7(A) and (B) to show that the criteria are satisfied.
- (D) Projects with a phased land development plan shall be required to perform a transportation concurrency analysis assessing the impacts of the phase(s) seeking a certificate of concurrency as well as a separate analysis of cumulative impacts of the total planned build-out of the project. The purpose for analyzing the total build-out plan is to provide an assessment of the system-wide transportation improvement needs due to the proposed development's impact. The analysis of the total build-out plan shall not, however, serve as a basis for determination of transportation concurrency or for issuance of a certificate of concurrency of the phase(s) seeking a certificate of concurrency.

### **3-6.8. Trip generation procedures.**

- (A) A transportation concurrency analysis shall specify all land uses (including units and intensities) with the applicable ITE Trip Generation Land Use Code.
- (B) Trip generation data sources. Trip generation data for the transportation concurrency analysis may be based on the most recent edition of the report entitled Trip Generation published by the Institute of Transportation Engineers (ITE), or other professionally accepted and City approved methodology.
- (C) Internal capture for multi-use sites. A multi-use project development is considered to consist of two or more land uses classifications between which project-related trips can be made without using the external roadway network. These internally captured project trips can be made entirely on an internal street network (or pathway system) without using public roadways that are external to the site. The guidelines for applying internal capture are as follows:
  - (1) Internal capture may only be applied after the total site trip generation has been calculated for all proposed land uses in the development plan. Internal capture shall be estimated as a percentage of the total number trips estimated for a site.
  - (2) A separate internal capture analysis shall be provided for each cumulative phase of development seeking a concurrency determination. The format of the analysis shall consist of a table, matrix, or diagram and shall clearly show that the internally captured trips balance among all proposed land uses.

- (3) All calculated internally captured trips, shall be subtracted from the total trip generation before any applicable pass-by trip reductions are applied (guidelines for pass-by reductions are contained in subsection 3-6.8(D)).
- (D) Pass-by traffic. As defined by ITE, pass-by trips are trips made as intermediate stops on the way from an origin to a primary destination. Pass-by trips are attracted from traffic passing on an adjacent street that has direct access to the land development project. These trips do not require a diversion from another roadway and do not represent the new trips added to the system. The guidelines for applying pass-by reduction are as follows:
- (1) Pass-by trips are drawn from the passing traffic stream, but are always included in the site driveway movements for traffic operations analyses.
  - (2) Typically, credit for pass-by is only allowed for commercial and retail-oriented land uses (ITE's Trip Generation Handbook provides guidance for average pass-by trip rates for several common commercial and retail-oriented land uses). Subject to approval by the City of Marianna, and applicant must provide justification for applying pass-by reductions for non-commercial/retail-oriented land uses.
  - (3) Pass-by calculations are applied toward the external trip generation after any reductions to the total trip generation have been made due to internal capture.
  - (4) Based on FDOT recommended procedures, the number of pass-by trips should not exceed ten percent of the adjacent street traffic during the peak hour or 25 percent of the project's external trip generation potential.

### **3-6.9. Project traffic distribution assignment.**

- (A) For the purpose of a transportation concurrency analysis project traffic will be distributed and assigned only to roadways that are identified and monitored in the City's transportation concurrency management system (CMS).
- (B) The applicant shall provide the p.m. peak hour project trip distribution and assignment expressed as a two-way volume for all roadways in the traffic impact study area. In providing this information, the analysis shall include:
  - (1) By means of a map or diagram, identification of all vehicular site access points, including indication of permitted and restricted turning movements into and out of the proposed project development. This shall include information regarding any existing or proposed median breaks (if

applicable) that would facilitate access to the site.

- (2) For proposed land project developments with access to more than one roadway in the transportation concurrency network, a copy of the proposed site plan shall be provided, which clearly illustrates the location, configuration and number of existing and/or proposed parking areas (if applicable).
  - (3) For each roadway in the traffic impact study area, as defined in subsection 3-6.7, project traffic shall be reported by the applicant in both tabular and map format.
  - (4) If the proposed project under review does not directly access a roadway segment on the transportation concurrency network, then project traffic shall be distributed and assigned on non-concurrency network roadways to the nearest roadway segment(s) on the transportation concurrency network. Impacts subject to transportation concurrency review shall be evaluated only on the roadway segments in the transportation concurrency network to which project traffic is assigned relative to its adopted LOS.
  - (5) The table provided in accordance with subsection 3-6.9(B)(3) shall be formatted to identify separately the impact of each major land use category, as well as the cumulative project impact, on each segment in the transportation concurrency network.
  - (6) A separate map for each proposed major land use category shall be provided illustrating each land use's trip distribution for each proposed major land use category. In addition, a map shall be provided showing the cumulative project trip distribution.
  - (7) The assignment should clearly show the specific roadways or driveways onto which project trips are assigned. All trip attenuation (mid-segment reductions) must be clearly shown and explained.
  - (8) An electronic copy of the trip distribution and assignment table shall be provided in a format requested by the City of Marianna and suitable for review.
- (C) The distribution and assignment of project traffic to roadway segments in the transportation concurrency network shall be made in accordance with the accepted traffic engineering and transportation planning principles and as approved by the City.



### **3-6.10. Roadway segment capacity analysis.**

- (A) For a transportation concurrency analysis a roadway segment capacity analysis shall apply to all roadway segments in the transportation concurrency network that are identified to be in the traffic impact study area.
- (B) Definitions. For the purpose of a roadway segment capacity analysis, the maximum service volume at the adopted level of service (LOS), the existing and committed traffic volume demand, and the proposed project traffic demand are defined as follows:
  - (1) Maximum service volume. The maximum hourly rate at which vehicles can be reasonably expected to traverse a point of uniform section of a roadway under prevailing roadway, traffic and control conditions while maintaining the adopted LOS standard.
  - (2) Existing traffic demand. The p.m. peak hour (two-way) traffic volume demand on a segment in the transportation concurrency network that is attributable to existing development travel patterns and is established from annual traffic volume counts. These counts are adjusted to the peak season unless the counts are otherwise obtained during the peak season period.
  - (3) Committed traffic demand. The p.m. peak hour traffic demand on a segment in the transportation concurrency network that is held in reserve and is expected to occur due to unbuilt, concurrency-approved or vested development projects.
  - (4) Proposed project traffic demand. The p.m. peak hour traffic demand on a segment in the transportation concurrency network that is estimated to occur due to a proposed development project under review for a transportation concurrency determination.
- (C) Roadway segment capacity analysis. Once the estimated net external project trips from a proposed development have been distributed and assigned, the impacts of these trips are evaluated on each roadway segment in the traffic impact study area to determine if the project impacts are significant on a roadway segment that is determined to be exceeding its available capacity at the adopted level of service standard (deficient). If a proposed land development project is estimated to significantly impact a roadway segment in the transportation concurrency network during the p.m. peak hour that is estimated, based on total traffic demand (existing, committed, and project demand), to be over capacity (deficient), then the transportation concurrency requirements have not been satisfied.

- (1) Test for significance. The significance of a land development's project traffic is determined by calculating the percentage of p.m. peak hour (two-way) traffic on a roadway segment that is generated by that development in relationship to the maximum service volume ("capacity") at the adopted level of service standard.
  - (a) De Minimis impact.
    - i. A de minimis impact is an impact on a roadway segment that would not affect more than one percent of the p.m. peak hour maximum service volume at the adopted level of service standard of the affected transportation facility in the transportation concurrency network that is located within the traffic impact study area pursuant to subsection 3-6.7.
    - ii. No impact will be determined to be de minimis for a roadway segment in the transportation concurrency network if the sum of the existing traffic demand (existing peak season traffic count) and the committed traffic demand (projected volumes from concurrency approved projects) would exceed 110 percent of the maximum service volume at the adopted level of service standard.
    - iii. An impact of a single-family home on an existing lot of record will constitute a de minimis impact on all roadways regardless of the level of the deficiency of the roadway.
    - iv. With the exception of subsection 3-6.10 (C)(1)(a)iii, no impact will be considered de minimis if it would exceed the adopted level of service standard of any affected designated primary hurricane evacuation route.
  - (b) Significant impact. If a proposed development project is projected to contribute greater than one percent of the maximum service volume at the adopted level of service standard on any roadway segment in the transportation concurrency network that is located within the traffic impact study area pursuant to subsection 3-6.7 during the p.m. peak hour (two-way), then it is determined to have a significant impact on that roadway segment.
- (2) Test for deficiency. A roadway segment in the transportation concurrency network that is located within the traffic impact study area pursuant to subsection 3-6.7 is considered to be deficient if the roadway segment is

estimated to be significantly impacted by project traffic pursuant to subsection 3-6.10(C)(1)(b) and:

- (a) The sum of existing, committed and project demand exceeds the p.m. peak two-way maximum service volume at the adopted level of service standard; or
- (b) Is currently identified as a constrained roadway facility (a roadway that will not be widened or expanded because of physical, policy or environmental limitations); or
- (c) Is currently identified as a backlogged roadway facility (a roadway that is currently operating below its LOS standard but is not programmed for improvement within three years of FDOT's Five Year Work Program or within five years of the City's capital improvements plan (CIP)).

### **3-6.11. Intersection operations level of service analysis.**

- (A) For a transportation concurrency analysis, an intersection operational analysis shall be performed for any signalized, or unsignalized intersection, corresponding to an endpoint of a defined segment in the transportation concurrency network where the total peak hour traffic demand (existing traffic demand, committed traffic demand, and the proposed project traffic demand) on one or more roadway segments forming a leg of the intersection is projected to equal or exceed 90 percent of the maximum service volume at the adopted level of service standard for any phase of a proposed land development project.
- (B) For a transportation concurrency analysis, the intersection level of service shall be analyzed by approach. Consistent with subsection 3-6.3(C), when two or more roadways with differing classification or adopted level of service (LOS) standards intersect and an intersection analysis is required, the lower LOS standard shall govern the intersection, unless one of the roadways is on the strategic intermodal system (SIS) or Florida Interstate Highway System, in which case the SIS/FIHS standard will prevail.
- (C) The procedures for conducting an intersection analysis shall be based upon a professionally accepted methodology approved by the City.
- (D) For each analyzed intersection where the total traffic impact results in a level of service below the adopted standard, the applicant shall provide the recommended improvement(s), as well as an additional intersection analysis to show that the recommended improvement(s) will solve the level of service deficiency.

- (E) For each intersection level of service analysis, the applicant shall provide the following:
  - (1) Printed summary report outputs.
  - (2) Copies of any traffic counts collected (turning movement counts or traffic volume counts), or used in the analysis, including any adjustment factors applied.
  - (3) Any other applicable data or information.

**3-6.12. Site access requirements.**

- (A) Driveway separation and site access. For the proposed site access points, the applicant shall show separation between access points or between an access point and an intersection consistent with the requirements set forth in subsection 4-6.6 of the City of Marianna Land Development Code and Policies 2.7.1, 2.7.2, 2.7.3, 2.7.4, and 2.7.5 of the Traffic Circulation Element of the City of Marianna Comprehensive Plan. Access management plans for a land development project shall be consistent with the provisions set forth in subsection 4-6.6 of the City of Marianna Land Development Code and Policies 2.7.1, 2.7.2, 2.7.3, 2.7.4, and 2.7.5 of the Traffic Circulation Element of the City of Marianna Comprehensive Plan.
- (B) Auxiliary turn lanes. For each site access point from a roadway on the transportation concurrency network, the applicant shall provide an analysis to determine whether exclusive left and/or right turn lanes are warranted to accommodate project traffic. The procedures for conducting a turn lane needs assessment shall be based on professionally accepted methodologies approved by the City.
- (C) Adequate sight distance. For each access point, regardless of whether the access is provided to a roadway in the transportation concurrency network, the applicant shall provide analysis to show that adequate sight distance is provided to facilitate safe egress from the site driveways in accordance with FDOT standards.
- (D) Driveway throat length. The applicant shall demonstrate that two-minute stacking for each driveway access during critical peak hour(s) is provided without obstruction to parking or internal access aisles.

**3-6.13. Supplemental traffic data collection.**

If additional traffic data collection is required to facilitate the evaluation of a land development project for a transportation concurrency determination or for related traffic operations analyses, the data shall be collected in accordance with FDOT recommended and accepted procedures.

**Sec. 3-7. Transportation mitigation proportionate fair share program.**

**3-7.1. Purpose and intent.**

The purpose of the transportation mitigation proportionate fair share program is to establish a method whereby the impacts of development on transportation facilities can be mitigated by the cooperative efforts of the public and private sectors, to be known as the transportation mitigation proportionate fair-share program, in a manner consistent with Chapter 163.3180(5)(h)3, F.S.

**3-7.2. Findings.**

The Marianna City Commission finds and determines that capacity on transportation facilities is a commodity that has a value to both the public and private sectors and that a City adopted transportation mitigation proportionate fair-share program would:

- (A) Provide a method by which the impacts of development on transportation facilities can be mitigated by the cooperative efforts of the public and private sectors;
- (B) Allow developers to proceed under certain conditions, notwithstanding the failure of transportation concurrency, by contributing their proportionate fair-share of the cost to improve or construct a transportation facility;
- (C) Contribute to the provision of adequate public transportation facilities for future growth and promote a strong commitment to comprehensive transportation facilities planning, thereby reducing the potential for moratoria or unacceptable levels of traffic congestion;
- (D) Maximize the use of public funds for adequate transportation facilities to serve future growth and may, in certain circumstances, allow the City to expedite transportation improvements by supplementing funds currently allocated for transportation improvements in the capital improvements program;
- (E) Ensure that a development is not responsible for the costs of correcting transportation deficiencies prior to the addition of project traffic pursuant to Chapter 163.3180(5)(h)3.c.(II)(B) F.S.; and
- (F) Be consistent with the requirements of Chapter 163.3180(5) F.S.

### **3-7.3. Applicability and exclusions.**

- (A) **Applicability.** The transportation mitigation proportionate fair-share program shall apply to all developments within the City of Marianna that have been notified of a lack of capacity to satisfy transportation concurrency on a transportation facility monitored by the City of Marianna Transportation Concurrency Management System, including transportation facilities maintained by FDOT or another jurisdiction that are relied upon for concurrency determinations.
- (B) **Exclusions.** The transportation mitigation proportionate fair-share program does not apply to developments of regional impact (DRIs) using proportionate fair-share under Chapter 163.3180(5), F.S., or to developments exempted from concurrency as provided in subsection 3-6.6(A), and/or Chapter 163.3180, F.S., regarding exceptions and de minimis impacts. Also excluded are transportation improvements required for public safety and site access requirements pursuant to subsection 3-6.12. The City of Marianna reserves the right to choose which transportation improvements are to be included or excluded from the transportation mitigation proportionate fair-share program. If the City chooses to exclude a transportation improvement from the transportation mitigation proportionate fair-share program, the developer may pay in full for all required transportation concurrency improvements in order to receive a development order. The City of Marianna reserves the right to deny approval of a development order for which improvements needed to meet concurrency requirements cannot be funded in by the developer.
- (C) **DISTA Exemption.** Development located within the DISTA is exempt from transportation concurrency as outlined in subsection 3-6.6(B).

### **3-7.4. General requirements.**

To satisfy transportation concurrency roadway deficiencies, an applicant may elect to participate in the City's transportation proportionate fair share program under the following conditions:

- (A) The proposed development is consistent with the City's Comprehensive Plan and any applicable land development requirements identified in the City's Land Development Code.
- (B) The five-year schedule of capital improvements in the City's Capital Improvements Element (CIE) includes the necessary transportation improvement(s) that, upon completion, will satisfy the requirements of the transportation concurrency management system to support the additional traffic estimated to be generated by a proposed land development project.

(C) If the necessary transportation improvement(s) needed to satisfy concurrency are not presently contained within the five-year schedule of capital improvements in the City's CIE, the City may choose to allow an applicant to satisfy transportation concurrency through the transportation mitigation proportionate fair-share program by contributing to an improvement that, upon completion, will satisfy the requirements of the transportation concurrency management system to support the additional traffic estimated to be generated by a proposed land development project, where the following apply:

- (1) The City Commissioners vote to add the improvement to the five-year schedule of capital improvements in the City's CIE no later than the next regularly scheduled update.
- (2) If the funds allocated for the five-year schedule of capital improvements in the City's CIE are insufficient to fully fund construction of a transportation improvement required by the transportation concurrency management system, the City may still enter into a binding proportionate fair-share agreement with the applicant authorizing construction of a land development project on which the proportionate fair-share is calculated if the proportionate fair-share amount in such agreement is sufficient to pay for one or more improvements which will, in the opinion of the City or other governmental entity(ies) maintaining the transportation facility(ies), significantly benefit the impacted transportation system.
- (3) If there are no funds allocated for the project in the five-year schedule of capital improvements in the City's CIE or the funds allocated are insufficient and the City is unable or unwilling to pay for the improvements needed to satisfy concurrency requirements.

The type of improvement(s) considered for funding by this provision will be at the discretion of the City. Also, any improvement(s) funded by proportionate fair-share under this provision must be adopted into the five-year capital improvements schedule of the City's CIE at the next annual update of the CIE.

(D) Any improvement project proposed to meet the developer's fair-share obligation must meet design standards of the City for locally maintained roadways, of the county on county maintained roadways, and those of the Florida Department of Transportation for state highway system.

### **3-7.5. Intergovernmental coordination.**

Pursuant to policies within the Intergovernmental Coordination Element of the City of Marianna Comprehensive Plan, the City shall coordinate with affected jurisdictions (in accordance with subsection 3-7.11), including FDOT, regarding mitigation to impacted facilities not under the jurisdiction of the local government receiving the application for proportionate fair-share mitigation. An interlocal agreement or memorandum of understanding (MOU) may be established with other affected jurisdictions for this purpose.

### **3-7.6. Application process.**

The transportation mitigation proportionate fair-share program shall be administered according to the following procedures:

- (A) Consistent with the City's development review process (Article 2 and section 3-6 of the City of Marianna Land Development Code), upon notification of a lack of capacity to satisfy transportation concurrency, the applicant shall also be notified in writing of the opportunity to satisfy transportation concurrency through the transportation mitigation proportionate fair-share program.
- (B) Prior to submitting an application for a transportation mitigation proportionate fair-share agreement, a pre-application meeting shall be held to discuss eligibility, application submittal requirements, potential mitigation options and related issues. If the impacted transportation facility is on the strategic intermodal system (SIS), then the Florida Department of Transportation (FDOT) will be notified and invited to participate in the pre-application meeting, pursuant to Chapter 163.3180.(5)(h)1, F.S.
- (C) Eligible applicants shall submit an application to the City that includes an application fee in accordance with the City's review fee schedule and the following:
  - (1) Name, address and phone number of owner(s), developer(s), and agent(s);
  - (2) Property location, including parcel identification numbers;
  - (3) Copy of the recorded deed, including the legal description;
  - (4) Survey of the property;
  - (5) Project description, including type, intensity and amount of development;
  - (6) Phasing schedule, if applicable;



- (7) Description of requested proportionate fair-share mitigation method(s); and
  - (8) Copy of transportation concurrency analysis and City-issued letter notifying the applicant of a lack of capacity.
- (D) The Municipal Development Department shall review the application and certify that the application is sufficient and complete within 30 working days. If an application is determined to be insufficient, incomplete or inconsistent with the general requirements of the transportation mitigation proportionate fair-share program, then the applicant will be notified in writing of the reasons for such deficiencies within 30 working days of submittal of an application. If the applicant does not remedy such deficiencies within 60 days of receipt of the written notification, then the application will be deemed abandoned. The City Commission may, in its discretion, grant an extension of time not to exceed 30 days to cure such deficiencies, provided that the applicant has shown good cause for the extension and has taken reasonable steps to affect a cure. The preliminary concurrency certificate shall remain valid while the proportionate fair share agreement is under review.
- (E) When an application is deemed sufficient, complete and eligible, the applicant shall be advised in writing and a proposed proportionate fair-share obligation and binding agreement will be prepared by the City and delivered to the applicant and the jurisdiction maintaining the transportation facility that is subject of the agreement, for review (i.e. Jackson County or FDOT for any proposed proportionate fair-share mitigation on a strategic intermodal system (SIS) facility), no later than 90 days from the date at which the applicant received the notification of a sufficient application and no fewer than 21 days prior to the City Commission meeting when the agreement will be considered.
- (G) The City shall notify the applicant regarding the date of the City Commission meeting and when the agreement will be considered for final approval. No proportionate fair-share agreement will be effective until approved by the City Commission.
- (H) Pursuant to subsection 3-6.2(D)(2)(d), a preliminary certificate of transportation concurrency shall remain valid while an application for a transportation mitigation proportionate fair-share agreement, consistent with subsection 3-7.6.

### **3-7.7. Determining proportionate fair-share obligation.**

This section establishes the methodology for determining the proportionate fair-share obligation of the applicant:

- (A) Pursuant to Chapter 163.3180(5)(h)3, F.S., a development shall not be required to pay more than its proportionate fair-share or cost of reducing or eliminating deficiencies prior to the addition of project traffic. The fair market value of the proportionate fair-share mitigation for the impacted facilities shall not differ regardless of the method of mitigation.
  
- (B) The methodology used to calculate an applicant's proportionate fair-share obligation shall be as provided in section 163.3180(5)(h)3,c.(II), F.S. as follows:
  - (1) The proportionate-share contribution shall be calculated based upon the number of trips from the proposed development expected to reach roadways during the peak hour from the stage or phase being approved, divided by the change in the peak hour maximum service volume of roadways resulting from construction of an improvement necessary to maintain or achieve the adopted level of service, multiplied by the construction cost, at the time of development payment, of the improvement necessary to maintain or achieve the adopted level of service.
  
  - (2) In using the proportionate-share formula provided in this subparagraph, the applicant, in its traffic analysis, shall identify those roads or facilities that have a transportation deficiency in accordance with the transportation deficiency as defined in sub-subparagraph 163.3180(5)(h)3,e, F.S. The proportionate-share formula provided in this subparagraph shall be applied only to those facilities that are determined to be significantly impacted by the project traffic under review. If any road is determined to be transportation deficient without the project traffic under review, the costs of correcting that deficiency shall be removed from the project's proportionate-share calculation and the necessary transportation improvements to correct that deficiency shall be considered to be in place for purposes of the proportionate-share calculation. The improvement necessary to correct the transportation deficiency is the funding responsibility of the entity that has maintenance responsibility for the facility. The development's proportionate share shall be calculated only for the needed transportation improvements that are greater than the identified deficiency.
  
  - (3) When the provisions of this subparagraph have been satisfied for a particular stage or phase of development, all transportation impacts from that stage or phase for which mitigation was required and provided shall be deemed fully mitigated in any transportation analysis for a subsequent stage or phase of development. Trips from a previous stage or phase that did not result in impacts for which mitigation was required or provided may be cumulatively analyzed with trips from a subsequent stage or

phase to determine whether an impact requires mitigation for the subsequent stage or phase.

- (C) The context of the term "cumulative" in subsection 3-7.7(B), includes only those trips from the stage or phase of a development being considered in the application. The trips expected to reach the failing roadway for this calculation are those identified in the development's transportation concurrency analysis. All assumptions used in the proportionate fair-share calculation shall be consistent with the provisions of the City's transportation concurrency review procedures and the maintenance of the transportation concurrency management system.
- (D) For the purposes of determining proportionate fair-share obligations, the City shall determine improvement costs based upon actual cost of the improvement as obtained from the capital improvements plan (CIP) or the Florida Department of Transportation's Work Program. Where such information is not available, improvement cost shall be determined using one of the following methods:
  - (1) An analysis by the City of costs by cross section type that incorporates data from recent projects and is updated annually and approved by the City Commission. In order to accommodate increases in construction material costs, project costs shall be adjusted by the inflation factor established by FDOT's Long Term Construction Cost Inflation Forecast; or
  - (2) The most recent issue of FDOT *Transportation Costs*; locally available data from recent projects on right-of-way acquisition, drainage and utility costs; and significant changes in the cost of materials due to unforeseeable events. Cost estimates for state road improvements not included in the adopted FDOT Work Program shall be determined using this method in coordination with the FDOT District.
- (E) If the City has accepted an improvement project proposed by the applicant, then the value of the improvement shall be determined using one of the methods provided in this section.
- (F) If the fair-market value of an alternative form of fair-share mitigation is less than the total proportionate fair-share obligation as determined by one of the methods provided in this section, the applicant must pay the difference. However, under no circumstances shall the City approve an application that obligates the City to compensate an applicant for proportionate fair-share mitigation that exceeds the value calculated by one of the methods provided in this section.
- (G) If the City has accepted right-of-way dedication as a form of proportionate fair-share mitigation, credit for the dedication of the related right-of-way shall be

valued on the date of the dedication at 115 percent of the most recent assessed value by the Jackson County Property Appraiser or, at the option of the applicant, by fair market value established by an independent appraisal approved by the City and at no expense to the City. The applicant shall supply a certified survey and legal description of the land and certificate of title or title search of the land to the City at no expense to the City. If the estimated value of the right-of-way dedication proposed by the applicant is less than the City estimated total proportionate fair-share obligation for that development, then the applicant must also pay the difference.

### **3-7.8. Impact fee credit for proportionate fair-share mitigation.**

At which time the City adopts an impact fee ordinance related to transportation facilities, the following provisions shall apply:

- (A) Proportionate fair-share contributions shall be applied as a credit against impact fees to the extent that all or a portion of the proportionate fair-share mitigation is used to address the same transportation improvement contemplated by a City impact fee ordinance. Credits will be applied toward the portion of the applicant's transportation impact fees that would have been used to fund the improvement on which the proportionate fair-share mitigation is calculated. If the proportionate fair-share mitigation is based on only a portion of the development's traffic, the impact fee credit will be limited to that portion of the impact fees on which the proportionate fair-share mitigation is based.
- (B) Impact fee credits for the proportionate fair-share contribution will be determined when the transportation impact fee obligation is calculated for the proposed development. Impact fees owned by the applicant will be reduced per the proportionate fair-share agreement as they become due per an applicable City-adopted impact fee ordinance. If the applicant's proportionate fair-share obligation is less than the development's anticipated road impact fee for the specific stage or phase of development under review, then the applicant or its successor must pay the remaining impact fee amount to the City pursuant to the requirements of the applicable City-adopted impact fee ordinance.
- (C) The proportionate fair-share obligation is intended to mitigate the transportation impacts of a proposed development at a specific location. As a result, any road impact fee credit based upon proportionate fair-share contributions for a proposed development cannot be transferred to any other location.

### **3-7.9. Proportionate fair-share agreements.**

- (A) Upon execution of a proportionate fair-share agreement, and having satisfied all other requirements for a transportation concurrency determination, the applicant

shall receive a certificate of transportation concurrency. Should the applicant fail to apply for the appropriate building permit(s) within 12 months of the execution of the proportionate fair-share agreement, then the agreement shall be considered null and void, and the applicant shall be required to reapply.

- (B) Payment of the proportionate fair-share or other contribution necessary to meet concurrency requirements is due in full prior to issuance of the final development order or execution of the final plat and shall be non-refundable. If a building permit is applied for more than 12 months from the date of execution of the proportionate fair-share agreement, then the proportionate fair-share cost shall be recalculated at the time of payment based on the best estimate of the construction cost of the required improvement at the time of payment, pursuant to subsection 3-7.8 and adjusted accordingly.
- (C) All developer improvements authorized under a proportionate fair-share agreement must be completed prior to issuance of the appropriate building permit(s), or as otherwise established in a binding agreement that is accompanied by proportionate fair-share contributions (in the form of a security instrument approved by the City Commission) that are sufficient to ensure the completion of all required improvements.
- (D) Dedication of necessary right-of-way for facility improvements pursuant to a proportionate fair-share agreement must be completed prior to issuance of the final development order or execution of the final plat.
- (E) Any requested change to a land development project subsequent to the issuance of the development order may be subject to additional proportionate fair-share contributions to the extent the change would generate additional traffic that would require mitigation.
- (F) Applicants may submit a letter to withdraw from the proportionate fair-share agreement at any time prior to the execution of the agreement, or the issuance of a certificate of transportation concurrency. The application fee and any associated advertising costs to the City will be non-refundable.
- (G) By approval of the City Commission, the City may consider joint applications for proportionate fair-share mitigation to facilitate collaboration among multiple applicants on improvements to a shared transportation facility. Such applications may include coordination with other jurisdictions through inter-local agreements.

### **3-7.10. Appropriation of fair-share revenues.**

This section establishes the methods for appropriating the revenue from proportionate fair-share contributions.

- (A) Proportionate fair-share revenues shall be placed in the appropriate project account for funding of scheduled improvements in the City's capital improvements plan (CIP), or as otherwise established in the terms of the proportionate fair-share agreement, certificate of transportation concurrency, or other development approval conditions. At the discretion of the City, proportionate fair-share revenues may be used for operational improvements prior to construction of the capacity project from which the proportionate fair-share revenues were derived. Proportionate fair-share revenues may also be used as the 50 percent local match for funding under FDOT's Transportational Regional Incentive Program (TRIP).
- (B) In the event a scheduled facility improvement is removed from the capital improvements plan (CIP), then the revenues collected for its construction shall be applied toward the construction of other transportation improvements in the CIP or the construction of another improvement within the City that would mitigate the impacts of development pursuant to the requirements of subsection 3-7.4(C)(2).

### **3-7.11. Cross jurisdictional impacts.**

Consistent with the intergovernmental coordination element in the City's Comprehensive Plan, this section provides an opportunity for the City to address the impacts of a proposed development near its border with Jackson County. It is intended as a means of managing development on regional transportation facilities.

- (A) In the interest of intergovernmental coordination and to reflect the shared responsibilities for managing development and concurrency, the City may enter into an agreement with Jackson County on regional transportation facilities. The agreement shall provide for the application of the methodology in this section to address the cross-jurisdictional transportation impacts of development.
- (B) A development application submitted to the City subject to transportation concurrency review meeting all of the following criteria shall be subject to this section:
  - (1) All or part of the proposed development is located within 0.25 mile of the area which is under the jurisdiction, for transportation concurrency of Jackson County; and
  - (2) Using its own concurrency analysis procedures, the City concludes that the additional traffic from the proposed development would use five percent or more of the adopted peak hour maximum service volume at the adopted level of service (LOS) standard of a regional transportation facility within the concurrency jurisdiction of the adjacent local

government; and

- (3) The impacted regional facility is projected to be operating below the level of service standard, adopted by the adjacent local government, when the traffic from the proposed development is included.
- (C) Upon identification of an impacted regional facility pursuant to subsection 3-7.11(B)(1-3), the City shall notify the applicant and Jackson County in writing of the opportunity to derive an additional proportionate fair-share contribution, based on the projected impacts of the proposed development on the impacted adjacent facility.
- (1) Jackson County shall have up to 60 days in which to notify the City of a proposed specific proportionate fair-share obligation, and the intended use of the funds when received. Jackson County must provide reasonable justification that both the amount of the payment and its intended use comply with requirements of section 163.3180(5)(g), F.S. Should Jackson County decline proportionate fair-share mitigation under this section, then the provisions of this section would not apply and the applicant would be subject only to the proportionate fair-share requirements of the City.
  - (2) If the subject application is subsequently approved by the City, the approval shall include a condition that the applicant provides, prior to the issuance of any development order covered by that application, evidence that the proportionate fair-share obligation to the adjacent local government has been satisfied. The City may require Jackson County to declare, in a resolution, ordinance or equivalent document, its intent for the use of the concurrency funds to be paid by the applicant.

### **Sec. 3-8. Aggregation.**

Properties near and adjacent to the submitted application owned by the same property owner or owner(s) shall be reviewed for aggregation.

The legal description for determining whether two or more properties shall be considered separate or aggregated as provided in Chapter 380.065(14) F.S. and as stated in Rule 9J-2.0275, F.A.C., shall apply to all proposed land development projects in the City of Marianna.

### **Sec. 3-9. Guarantee of adequate capacity.**

Upon determination of adequate capacity as described in this Article the City shall guarantee to the developer availability of capacity in the types, amounts, or volumes specified in the final development order or development agreement. Such guarantees of available capacity shall be

valid for a period of six months from the date the final development order is issued.

Any guarantee of adequate capacity shall become null and void in the event circumstances beyond the control of the City cause adequate capacity to become unavailable. Such circumstances shall include, but not be limited to: acts of other governmental agencies; war; act of God; or, changes in laws, rules or other legislative actions.