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Article XI

ARTICLE XI

CONCURRENCY MANAGEMENT SYSTEM

SECTION 21-130 - PURPOSE AND INTENT

Concurrency is a finding that the required public facilities and services necessary to support a proposed development are available, or will be made available, concurrent with the impacts of the development. This Article is intended to provide a systematic process for the review and evaluation of all proposed development for its impact on public facilities and services as required by Chapter 163.3180, Florida Statutes (F.S.) and Rule 9J-5.0055, Florida Administrative Code (FAC).

Public facilities and services in the City of Edgewater that are subject to these regulations include:

1. Potable Water
2. Sanitary Sewer
3. Drainage/Stormwater
4. Recreation/Open Space
5. Solid Waste
6. Roadways
7. Schools

The purpose of this Article is to ensure that Development Orders and permits are conditioned on the availability of these facilities and services that meet adopted level of service requirements identified in this Article. This Article is also intended to describe the requirements and procedures for determining consistency of proposed development with the City of Edgewater's Comprehensive Plan.

SECTION 21-131 - CONSISTENCY WITH CITY'S COMPREHENSIVE PLAN

Pursuant to the requirements of Chapter 163.3194 (1)(a), F.S., all development applications must represent projects that are consistent with the City of Edgewater Comprehensive Plan, particularly the Future Land Use Element designations for the subject parcel. Upon a determination by the City staff that a proposed project is consistent with the Plan, the development permit applications shall demonstrate that the public facilities listed above shall be available at prescribed levels of service when the impact of the development occurs.

The provisions of this Article implement the following policies of the Comprehensive Plan:

- Future Land Use Element,
- Traffic Circulation Element,
- Sanitary Sewer Sub-element,
- Potable Water Sub-element,
- Drainage Sub-element,
- Coastal Management Element and
- Recreation & Open Space Element

Intergovernmental Coordination Element

SECTION 21-132 - CONCURRENCY REVIEW PROCESS

21-132.01 - General

- a. The Development Services Director shall be responsible for the administration of the Concurrency Management System. No final Development Order shall be issued for any project unless it meets the conditions stated in this Article.
- b. The Development Services Director shall present a concurrency management status report to the Planning and Zoning Board to allow its review and recommendation to the City Council for preparation of the City's Capital Improvement Element and Budget.

21-132.02 - Application

- a. All applicants for projects subject to a concurrency review shall make application in the manner and form prescribed by the Department and shall at a minimum include the proposed use, its density or intensity and anticipation completion date.
- b. No application for concurrency review shall be accepted unless accompanied by the required documentation and application fee.
- c. The City shall issue a capacity availability determination upon completion of the review. If transportation capacity is deemed not available, then the applicant shall be notified in writing of the opportunity to satisfy transportation concurrency through the City's proportionate fair-share program.

21-132.03 - Traffic Counts

The Development Services Department shall annually publish the annual average daily vehicle trip counts for the arterial, collector and local roadway segments affecting the City.

21-132.04 - Concurrency Determination

The Development Services Department shall provide the applicant with a written concurrency determination concerning the proposed development no later than twenty-one (21) working days after submission of the application.

- a. Identifying the available capacity of each facility cited in herein; and
- b. Identifying any facility deficiencies; and
- c. Identifying the improvements required for a deficient facility to meet the adopted level of service standards; and
- d. Other such findings as may be pertinent to the specific project.

21-132.05 - Appeals

An applicant may appeal concurrency determination made by the Development Services Director as described in Article I.

21-132.06 - Concurrency Resolution

If the concurrency review determines that the proposed project will cause the level of service standards for one or more of the facilities listed in Section 21-134 to be exceeded, the City and the applicant may enter into a Developer's Agreement pursuant to the requirements of Chapter 163, F.S.

21-132.07 - Fees

The fees for concurrency management reviews and other matters shall be as established by resolution.

SECTION 21-133 - APPLICABILITY AND EXEMPTIONS

All proposed development projects shall be subject to concurrency review, unless specifically exempted below. In no case, shall a Development Order be issued for a minimum threshold project which would impact a public facility for which a moratorium, or deferral on development has been placed.

21-133.01 - Projects Below the Minimum Threshold

The following projects shall be exempt from concurrency review:

- a. Residential projects resulting in the creation of a one single family dwelling or one two family dwelling as well as projects that entail structural alterations to such structures which do not change the use of the structure or land; or
- b. Change of use, or expansion, of non-residential projects of up to ten percent (10%) of the existing gross floor area, providing such change of use or expansion is estimated to generate less than a fifteen percent (15%) increase in utility demand for the changed or expanded structure. Vehicle trip generation data shall be pursuant to the latest edition of the Institute of Traffic Engineers publication, Trip Generation Manual; or
- c. Construction of residential or non-residential accessory buildings and structures which do not create additional public facility demand; or,
- d. Actions administered through non-impact Development Orders as well as other developments which do not increase demand on public facilities, such as grading or excavation of land, or structural alterations which do not include a change of use and satisfy provisions of (a) and (b) above.

21-133.02 - Vested Projects

Projects with valid final Development Orders prior to September 11, 2006 shall be considered vested and exempt from concurrency management. These Development Orders shall include the following:

- a. Any project for which a valid building permit was issued prior to adoption of this Code and has not expired; or
- b. All vacant lots in single family detached, single family attached and two family subdivisions that were platted and recorded prior to adoption of this Code.

21-133.03 - Redevelopment Projects

- a. If a redevelopment project generates demand in excess of one hundred fifteen percent (115%) of the establishment it is replacing, a concurrency review shall be required. However, the concurrency review shall only be directed to the demand generated that exceeds the demand of prior existing development.
- b. If the proposed redevelopment generates equal, or less, demand than the existing project, the applicant for concurrency review shall be given a concurrency credit memorandum within thirty (30) days of the concurrency evaluation which enables the applicant to reserve the unused capacity. The concurrency credit memorandum will expire within three (3) years of its issuance. The applicant's submission of an application for a demolition permit shall initiate the concurrency review for the express purpose of issuing credits for redevelopment.

SECTION 21-134 - FINAL DEVELOPMENT ORDER CRITERIA

A final Development Order shall not be granted for a proposed development unless the City finds that capacity for public facilities exists at, or above, adopted level of service (LOS), or that improvements necessary to bring concurrency facilities up to their adopted LOS will be in place concurrent with the impacts of the development. The City shall find that the criteria listed below has been met in order for a proposed development to be found in compliance with concurrency management requirements.

21-134.01 - Sanitary Sewer, Solid Waste, Drainage and Potable Water Facilities

Sanitary sewer, solid waste, drainage and potable water facilities shall, at a minimum, meet the following standards to satisfy the concurrency requirements:

- a. A Development Order is issued subject to the condition that at the time of the issuance of a Certificate of Occupancy, or its functional equivalent, the necessary facilities and services are in place and available to serve the new development; or
- b. At the time the Development Order is issued, the necessary facilities are guaranteed in an enforceable Development Agreement pursuant to Section 163, F.S.; or
- c. An agreement, or Development Order, issued pursuant to Chapter 380, Florida Statutes, to be in place and available to serve new development at the time of the issuance of a Certificate of Occupancy.

21-134.02 - Parks and Recreation Facilities

Parks and recreational facilities shall, at a minimum, ensure the following standards are met:

- a. At the time the Development Order is issued, the necessary facilities are in place or actual construction has commenced; or
- b. A Development Order is issued subject to the condition that at the time of the issuance of a Certificate of Occupancy, the acreage for the necessary facilities to serve the new development is dedicated, or acquired by the City, or funds in the amount of the developer's fair share are committed; and
 1. A Development Order is issued subject to the conditions that the necessary facilities needed to serve the new development are scheduled to be in place, or under actual construction, not more than one (1) year after issuance of a Certificate of Occupancy, as provided in the City's Capital Improvement Element; or
 2. At the time the Development Order is issued, the necessary facilities are the subject of a binding executed agreement which requires the necessary facilities and services to serve the new development to be in place or under actual construction not more than one (1) year after issuance of a Certificate of Occupancy; or
 3. At the time the Development Order is issued, the necessary facilities are guaranteed in an enforceable development agreement pursuant to Section 163 Florida Statutes or under actual construction not more than one (1) year after issuance of a Certificate of Occupancy.

21-134.03 - Transportation Facilities

Transportation facilities shall, at a minimum, meet the following standards:

- a. At the time a Development Order is issued, the necessary facilities and services are in place or under construction; or satisfy transportation concurrency by making a proportionate fair-share contribution.

21-134.04- Proportionate Fair-Share Program

- a. The purpose of this section 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 Proportionate Fair-Share Program, as required by and in a manner consistent with Section 163.3180(16), Florida Statutes. Proportionate Fair-Share payments shall be distinct and separate payments from and shall not be considered the same as impact fee payments. Impact fees are imposed by the City to replace capacity utilized by growth and to provide funding for long-range transportation plans. Proportionate fair-share is assessed to pay for specific deficiencies to the transportation network resulting from development and enabling development to meet level of service (LOS) concurrency requirements. Proportionate Fair Share enables development to meet concurrency requirements by proportionately paying for improvement projects.

- b. The Proportionate Fair-Share Program shall apply to all developments that fail to meet the standards of concurrency on a roadway within the City including those facilities that are the responsibility of Volusia County or the Florida Department of Transportation (FDOT). The Proportionate Fair-Share Program does not apply to Developments of Regional Impact (DRI) using proportionate fair share under Section 163.3180(12), Florida Statutes or to developments exempted from concurrency as provided in Chapter 163.3180, Florida Statutes.

21-134.05- Proportionate Fair-Share General Requirements

- a. An applicant may choose to satisfy the transportation concurrency requirements by making a proportionate fair-share contribution for impacts of new development that have or will have an LOS deficiency as defined in this division, pursuant to the following requirements:
 - 1. The proposed development is consistent with the comprehensive plan and applicable land development regulations.
 - 2. The proposed development impacts a part of the transportation network that is deemed by the maintaining agency to have an existing level-of-service deficiency or is proposed to cause a new deficiency on the network.
 - 3. The road improvement necessary to maintain the adopted LOS is specifically identified for construction in the five-year schedule of capital improvements in the Capital Improvements Element (CIE) of the Comprehensive Plan. The provisions of Section 21-134.04(d) may apply if a transportation project or projects are needed to satisfy concurrency and are not presently included within the City's CIE.
- b. If an applicant meets the criteria contained in Section 21-134.05(a), and the City's CIE does not include the transportation improvements necessary to satisfy the LOS deficiency, then the City may allow transportation concurrency improvements and funding for the project through the proportionate fair-share upon compliance with the following criteria:
 - 1. The improvement shall not be contained in the first three years of the City's five-year schedule of capital improvements in the CIE;
 - 2. The City adopts by resolution a commitment to add the improvement funded by the developer's proportionate share assessment to the five-year schedule of capital improvements in the CIE at a point no later than the next scheduled annual update. To qualify for consideration under this section, the developer shall be required to submit for review and obtain the City's approval of the financial feasibility of the proposed improvement pursuant to Section 163.3180, Florida Statutes, consistent with the comprehensive plan, and in compliance with the provisions of this ordinance;
 - 3. The City agrees to enter into a binding proportionate fair share agreement;
 - 4. The City agrees to amend the five-year schedule of capital improvements in the

City's CIE at the next annual review or 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 Concurrency Management System (CMS) to make the project concurrent, the City may still enter into a binding proportionate fair-share agreement with the applicant; provided, however, that the proportionate fair-share amount in such agreement is sufficient to pay for one or more improvements which shall, in the opinion of the City Council, alleviate the concurrency concern and the CIE is amended accordingly at the next annual review.

5. The improvement proposed to meet the developer's fair-share obligation shall meet the design standards of the applicable agency responsible for maintenance.
 6. The improvement shall provide necessary capacity to address transportation concurrency needs for the five-year period following execution of the fair-share agreement.
- c. Pursuant to policies in the Intergovernmental Coordination Element of the Comprehensive Plan, the City shall coordinate with Volusia County and other affected jurisdictions, 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 may be established with other affected jurisdictions for this purpose.

21-134.06- Proportionate Fair-Share Application Process

- a. Upon notification of a lack of capacity to satisfy transportation concurrency, the applicant shall be notified of the opportunity to satisfy transportation concurrency through the Proportionate Fair-Share Program.
- b. Prior to the submittal of an application, eligible applicants shall schedule a pre-application meeting with the Development Services Department. Subsequent to the pre-application meeting, eligible applicants shall submit a completed development application and all documentation requested by the City. The City shall establish applicable application fees for the cost of reviewing the application. If the impacted facility is on the Strategic Intermodal System (SIS), then FDOT will be notified and invited to participate in the pre-application meeting. The City shall also have the option of notifying and inviting Volusia County and any other affected agency.
- c. The Development Services Department shall review the application and certify that the application is sufficient and complete within 10 working days. If an application is determined to be insufficient, incomplete or inconsistent with the general requirements of the Proportionate Fair-Share Program, then the applicant will be notified in writing of the reasons for such deficiencies. If such deficiencies are not remedied by the applicant within 30 days of receipt of the written notification, then the application will be deemed withdrawn and all fees forfeited to the City. The Council may, in its discretion, grant an extension of time not to exceed 60 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.

- d. Pursuant to Section 163.3180(16)(e), Florida Statutes, proposed proportionate fair-share mitigation for development impacts to facilities on the SIS requires the concurrency of the FDOT. The applicant shall submit evidence of an agreement between the applicant and the FDOT for inclusion in the proportionate fair-share agreement.
- 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, or by the applicant subject to the approval of the City, and delivered to the appropriate parties for review no later than 60 days from the date at which the applicant received the notification of a sufficient, complete, and eligible application. If the agreement is not received by the City within these 60 days, then the application will be deemed withdrawn and all fees forfeited to the City.
- f. No proportionate fair-share agreement will be effective until approved by the City Council.

21-134.07 - Determining Proportionate Fair-Share Obligation

- a. Proportionate fair-share mitigation for concurrency impacts may include, without limitation, separately or collectively, private funds, contributions of land, and construction and contribution of facilities.
- b. A development eligible for participation under the Proportionate Fair-Share Program shall not be required to pay more than its proportionate fair share. The fair market value of the proportionate fair-share mitigation for the impacted facilities shall not differ regardless of the method of mitigation.
- c. The methodology used to calculate a development’s proportionate fair-share obligation towards a road and/or intersection shall be as provided for in Section 163.3180(12), Florida Statutes, as follows:
 - 1. The cumulative number of trips from the proposed development expected to reach roadways during peak hours from the complete build out of a stage or phase being approved, divided by the change in the peak hour maximum service volume (MSV) of roadways resulting from construction of an improvement necessary to maintain the adopted LOS, multiplied by the construction cost, at the time of developer payment, of the improvement necessary to maintain the adopted LOS; or

2. Proportionate fair-share = $\sum [[(Development\ Trips_i) / (SV\ Increase_i)] \times Cost_i]$

Where:

Development Trips_i = The cumulative trips from a development that will arrive on a road segment and/or intersection at the build-out of the stage or phase of development under review.

SV Increase_i = Service volume increase provided by the eligible improvement to roadway segment “i” based on the adopted LOS for that facility and/or intersection;

Cost_i = Adjusted cost of the improvement to segment “i”. Cost shall include all improvements and associated costs, such as design, right-of-way acquisition, planning, engineering, inspection, environmental mitigation and physical development costs directly associated with construction at the anticipated cost in the year it will be incurred.

- d. For the purposes of determining proportionate fair-share obligations, the City Engineer shall determine improvement costs based upon the actual and/or anticipated cost of the improvement in the year that construction would occur.
- e. If the applicant proposes an improvement, then the value of the improvement shall be based on an engineer's certified cost estimate provided by the applicant and reviewed by the City Engineer.
- f. The City may accept a contribution of land for all or part of the proportionate fair-share payment provided that such land is related to proposed development project. If the City accepts such land, then credit for the said land shall be valued on the date of execution of the agreement at 100 percent of the most recent fair market value established by an independent appraiser. The appraiser shall be authorized by the City to perform the work and shall be paid by the developer. The applicant shall supply a survey, legal description and an Ownership and Encumbrance Report or title insurance policy dated no more than six months at no expense to the City. If the estimated value of the land dedication proposed by the applicant is less than the fair-share obligation, then the applicant shall also pay the difference.

21-134.08 - Impact Fee Credit for Proportionate Fair-Share Mitigation

- a. Proportionate fair-share contributions shall be applied as a credit against City road impact fees to the extent that all or a portion of the proportionate fair-share mitigation is used to address capital infrastructure improvements contemplated by Section 21-323 of the Land Development Code (LDC).
- 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 owed by the applicant will be reduced per the proportionate fair-share agreement as they become due pursuant to Section 31-323 contained in the LDC. Once the credit has been exhausted, payment of road impact fees shall be required for each permit issued. The impact fee credit shall be established when the proportionate fair-share contribution is received by the City.
- c. The proportionate fair-share obligation is intended to mitigate the transportation impacts of a proposed project. As a result, any road impact fee credit based upon proportionate fair-share contributions for a proposed project cannot be transferred to any other project.

21-134.09 - Proportionate Fair-Share Agreements

- a. Upon execution of a proportionate fair-share agreement ("Agreement") as approved by City Council, the applicant shall receive a certificate of concurrency approval. Should the applicant fail to apply for a building permit within 18 months, then the Agreement and the certificate of concurrency approval shall be considered null and void, and the applicant shall be required to reapply.
- b. Payment of the proportionate fair-share contribution is due in full no later than the issuance of the first building permit, and shall be non-refundable. If the payment is submitted more than 90 days from the date of execution of the Agreement, then the proportionate fair-share cost shall be recalculated at the time of payment, pursuant to Section 21-134.07, and adjusted accordingly.
- c. In the event an Agreement requires the applicant to pay or build 100 percent of one or more road improvements, all such improvements shall be commenced prior to the issuance of a building permit and assured by a binding agreement that is accompanied by a surety device, as determined by the City, which is sufficient to ensure the completion of all required improvements. It is the intent of this section that any required improvements be completed before the issuance of Certificates of Occupancy.
- d. Dedication of necessary rights-of-way for facility improvements pursuant to a proportionate fair-share agreement shall be completed prior to the issuance of the first building permit but shall not include a building permit issued for an uninhabited model home.
- e. Any requested change to a development subsequent to a 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. The application fee and any associated advertising costs paid to the City will be non-refundable.
- g. The City may enter into proportionate fair-share agreements for selected corridor improvements to facilitate collaboration among multiple applicants on improvements to a shared transportation facility.

21-134.10 - Appropriations of Fair-Share Revenues

- a. Proportionate fair-share revenues shall be placed in the appropriate project account for funding of scheduled improvements in the CIE, or as otherwise established in the terms of the proportionate fair-share agreement. Proportionate fair-share revenues may be used as the 50 percent local match for funding under the FDOT Transportation Regional Incentive Program (TRIP), or any other matching requirement for state and federal grant programs as may be allowed by law.
- b. In the event a scheduled facility improvement is removed from the CIE, then the revenues collected for its construction may be applied toward the construction of another improvement within that same corridor or sector that would mitigate the impacts of development pursuant to the requirements of Section 21-134.05.

SECTION 21-135 - ADOPTED LEVEL OF SERVICE STANDARDS

Table XI-1 depicts the level of service standards for those public facilities for which concurrency is required and are found in the Capital Improvement Element (Concurrency Management System of the Comprehensive Plan). These standards may only be changed by the full-scale plan amendment process described in Article IX.

**TABLE XI - 1
ADOPTED LEVEL-OF-SERVICE STANDARDS**

Level of Service Standards	Recreation / LOS /Person
Sanitary Sewer - 95 gallons/capita/day	5 acres of parkland per 1,000 residents
Solid Waste - 2.75 lbs./capita/day	
Drainage - 25 year/24 hr storm	
Potable Water - 100 gallons/capita/day	
Local Streets - LOS E	

Source: Capital Improvement Element

Note: Roadway Levels of Service are based on the PM Peak Hour

SECTION 21-136 CONCURRENCY DEMAND METHODOLOGY

The levels of service standards for all concurrency facilities are listed in Table XI-1. The applicant shall provide the Development Services Department with the information to determine if a proposed development is consistent with the City’s concurrency requirements. The demand on concurrency facilities generated by the applicant's development shall be defined consistent with the City’s Level of Service.

21-136.01 – Roadways - Traffic Impact Analysis Methodology and Requirements

The City hereby adopts, as an administrative requirement, the submission of a traffic impact analysis for those development applications, which are subject to concurrency review. The administrative rule relating to the required submission, which is hereby adopted by reference as fully set forth herein, as the same may be amended from time-to-time, is the document entitled *Transportation Impact Analysis (TIA) Guidelines – For Development Applications Requiring A TIA in Volusia County, Florida*, dated May 22, 2007, as approved by the Volusia County Metropolitan Planning Organization. The applicant for all development applications subject to concurrency review shall submit a traffic impact analysis using the aforementioned and most current version of *TIA Guidelines*.

21-136.02 - Solid Waste Facilities

The demand for solid waste facilities shall be 2.75 pounds per capita per day.

21-136.03 - Potable Water Facilities

The demand for potable water shall be 100 gallons per capita per day.

21-136.04 - Sanitary Sewer Facilities

The demand for sanitary sewer shall be 95 gallons per capita per day.

21-136.05 - Drainage

The applicant shall provide evidence demonstrating that the proposed project shall meet the City's adopted level of service standards for drainage (100 year storm event).

21-136.06 - Recreation and Open Space

The demand for recreation areas shall be determined by applying the recreation facilities standards found in Table XI-1.

SECTION 21-137 - INTERGOVERNMENTAL COORDINATION

21-137.01 - Multi-jurisdictional Developments

Developments, which would impact a public facility in one, or more adjacent local government jurisdictions, shall be subject to an intergovernmental review for concurrency. Table XI- 2 identifies some projects that will be subject to multi-jurisdictional review. Other proposed projects may also be subject to review by other local governments depending on the unique characteristics of the project.

**TABLE XI - 2
TRAFFIC IMPACTS STUDY AREA RADII (miles)**

Residential Dwell. Units	Hotel or Motel Units	Office (GLFA)	Shop Centers (GLFA)	Industrial (GLFA)
0-249 DU 0.5 miles	0-249 0.5 miles	0-99,000 0.25 miles	0-49,000 0.25 miles	0-249,000 0.5 miles
250-499 1.1 miles	250-499 1.0 miles	100-199,000 1.0 miles	50-99,999 0.5 miles	250-499,000 1.0 miles
500-1000 DU 1.5 miles	500-1000 1.5 miles	200,000 + 1.5 miles	100-199,000 0.75 miles	500-999,000 1.5 miles
1000 + 1.2 miles	1000 + 2.0 miles		200-399,000 1.0 miles	1,000,000 + 2.0 miles
			400,000 + 1.5 miles	

Source: Development Services Department

Note: GLFA = gross leasable floor area

Sections 21-138 through 21-139 reserved for future use.