

1 | ALACHUA COUNTY
2 | BOARD OF COUNTY COMMISSIONERS
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5 | **ORDINANCE 06-36**

6 | (Concurrency Management/Proportionate Share Amendment)
7 |

8 | AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF
9 | ALACHUA COUNTY FLORIDA AMENDING THE UNIFIED LAND
10 | DEVELOPMENT CODE IN THE ALACHUA COUNTY CODE OF
11 | ORDINANCES, PART III, TITLE 40, CHAPTER 407 ARTICLE XII,
12 | CONCURRENCY MANAGEMENT SECTIONS 407.118 THRU 407.121,
13 | 407.125 AND 407.126; PROVIDING FOR TRANSPORTATION
14 | CONCURRENCY CRITERIA, METHODOLOGY, AND PROCESS;
15 | PROVIDING FOR TRANSPORTATION NETWORK EVALUATION
16 | CHANGES; AUTHORIZING PROPORTIONATE FAIR-SHARE
17 | CONTRIBUTION TO MITIGATE TRANSPORTATION IMPACTS OF NEW
18 | DEVELOPMENT AND PROVIDING FOR METHODOLOGY AND
19 | PROCESS; PROVIDING FOR APPEALS; PROVIDING FOR
20 | SEVERABILITY; PROVIDING A REPEALING CLAUSE; PROVIDING FOR
21 | INCLUSION IN THE CODE AND CORRECTION OF SCRIVENER'S
22 | ERRORS; PROVIDING FOR LIBERAL CONSTRUCTION; AND
23 | PROVIDING AN EFFECTIVE DATE.
24 |

25 | BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF

26 | ALACHUA COUNTY, FLORIDA:

27 | Section 1. Chapter 407, Article XII, Concurrency Management, of the Alachua County

28 | Code of Ordinances, is hereby amended to read as follows:

29 | **Sec. 407.117. Purpose.**

30 | The purposes of this article are to implement the Alachua County Comprehensive Plan's
31 | adopted level of service standards for roads, potable water, sanitary sewer, parks, solid waste,
32 | stormwater management, and mass transit.
33 |

34 | **Sec. 407.118. Requirements for Concurrency.**

35 | No final development order shall be approved, except for the development that is defined
36 | as exempt or vested pursuant to this Chapter, unless it is determined that the necessary public
37 | facilities will be available concurrent with the impacts of the proposed development. The burden
38 | of meeting this concurrency requirement will be on the applicant requesting a final development
39 | order. The criteria for determining whether the public facilities affected by the development will
40 | be available based on the level of service standards adopted for each public facility are as
41 | follows:
42 |

- 1 (a) For potable water, sanitary sewer, solid waste, and stormwater management facilities:
2
3 (1) The necessary facilities and services are in place at the time a development permit
4 is issued; or
5
6 (2) A development permit is issued subject to the condition that the necessary
7 facilities will be in place when the impacts of development occur; or
8 (3) The necessary facilities are under construction at the time a development permit is
9 issued and will be in place when the impacts of development occur; or
10
11 (4) The necessary facilities and services are guaranteed in an enforceable
12 development agreement that includes the provisions in section 407.118(a)(1), (2)
13 or (3) above. An enforceable development agreement may include, but is not
14 limited to: (1) development agreements pursuant to F.S. § 163.3220, or (2) an
15 agreement or development order issued pursuant to F.S. ch. 380. Any such
16 agreement must guarantee that the necessary facilities and services will be in
17 place when the impacts of development occur.
18
19 (b) For parks and recreational facilities, in addition to meeting one of the criteria defined
20 under subsection section 407.118(a), above, the requirement for concurrency may be met if:
21
22 (1) At the time the development permit is issued, the necessary facilities and services
23 are the subject of a binding executed contract which provides for the
24 commencement of actual construction of the required facilities or the provision of
25 services within one year of the issuance of the development permit; or
26
27 (2) The necessary facilities and services are guaranteed in an enforceable
28 development agreement which requires commencement of construction of the
29 facilities within one year of the issuance of the applicable development permit.
30 Such enforceable development agreements may include, but are not limited to,
31 development agreements pursuant to F.S. § 163.3220, or an agreement or
32 development order issued pursuant to F.S. ch. 380.
33
34 (c) For roads and mass transit facilities, in addition to meeting one of the criteria under
35 section 407.118(a) or (b) above, the requirement for concurrency, in accordance with Section
36 163.3180(2)(c), F.S., may be met if transportation facilities needed to serve new development
37 shall be in place or under actual construction within 3 years issuance of the final development
38 order for a development that will result in additional traffic generation. the improvements needed
39 to maintain adopted level of service standards are programmed in the capital improvement
40 programs as follows: actual construction of the improvement to a facility necessary to maintain
41 the adopted level of service is to commence in or before the third year of the adopted capital
42 improvement program. Projects included in the first three years of the Florida Department of
43 Transportation's five year work program may be recognized under this provision.
44

1 **Sec. 407.119. Information and methodology.**

2 (a) The information and methodology to be used by the county as the basis for concurrency
3 determinations are as follows:

- 4
- 5 (1) The maximum service volume of each public facility affected by the proposed
6 development based on the adopted level of service standards.
 - 7
 - 8 (2) The existing demand on each public facility affected by the proposed
9 development.
 - 10
 - 11 (3) Any reservation of capacity on each affected public facility for approved
12 development.
 - 13
 - 14 (4) Proposed development impacts (the projected or estimated portion of the capacity
15 of the affected public facility to be used by the proposed development).
 - 16

17 (b) The necessary public facilities will be deemed available concurrent with the impacts of
18 the proposed development if the sum of proposed development impacts when added to the
19 existing demand and the capacity reservation is less than the maximum service volume on the
20 affected facilities.

21

22 (c) For the purposes of making concurrency determinations, affected roadway facilities shall
23 be determined as follows:

- 24
- 25 (1) For proposed developments generating less than or equal to 1000 external average
26 daily trips, (ADT) affected roadway segments are all those wholly or partially
27 located within one-half mile of the project's entrances/exits, or to the nearest
28 intersecting major street, whichever is greater.
 - 29
 - 30 (2) For proposed developments generating greater than 1,000 external ADT, affected
31 roadway segments are those on which the project's impacts are five percent or
32 greater of the maximum service volume of the roadway. The study area for
33 proposed developments generating greater than 1,000 external ADT must, at a
34 minimum, include all roadway segments located partially or wholly within one-
35 half mile of the projects entrances/exits, or to the nearest major intersection,
36 whichever is greater.
 - 37

38 **Sec. 407.120. Preliminary certificate of level of service compliance.**

39 (a) An applicant must apply for a preliminary certificate of level of service compliance
40 (CLSC) no later than the time of application for preliminary development plan approval. Except
41 for projects associated with an approved planned development, the preliminary application shall
42 be submitted with an application for preliminary development plan approval. The applicant shall
43 submit, with the preliminary application:

1 (1) Documentation supporting any assertion of de minimis impact. The
2 documentation shall also include an analysis to show that the impacted roadways
3 do not operate above 110% of the maximum service volume.

4
5 (2) If the applicant is not asserting de minimis impacts, the appropriate traffic
6 documentation including impacts to affected roadway facilities as defined in
7 section 407.119(c) shall be included in the application.
8

9 (b) The county will review the application and supporting traffic documentation for
10 completeness and correctness within the timeframes of the applicable DRC cycle in order to
11 ensure that the information submitted is sufficient to accept the application and continue its
12 review. If the application is determined to be incomplete or incorrect, the applicant will be
13 notified within the applicable DRC review period and advised of the deficiencies required to be
14 addressed in a new or revised application.
15

16 (c) If the application is determined to be complete, an assessment of whether the concurrency
17 requirements are met for each public facility affected by the proposed development will be
18 provided by the DRC with its review of the preliminary development plan.
19

20 (d) Based on this assessment by DRC, the concurrency management official (CMO) will
21 issue a preliminary CLSC determination within five working days of DRC action on the
22 preliminary development plan. The preliminary CLSC determination will indicate if the
23 proposed developments' impacts are considered de minimis impacts or if the requirements for
24 concurrency will be met, subject to any limitations indicated by the public facility provider,
25 based on the preliminary development plan. The CLSC will also indicate any additional
26 information or items that are required to be submitted with final plan application. Projects
27 determined to have de minimis impacts shall not be required to meet roadway concurrency
28 requirements, or if the requirements will not be met based on the preliminary development plan,
29 the preliminary CLSC will indicate what deficiencies will have to be addressed in the final
30 development plan in order for a final CLSC to be issued. A preliminary CLSC is valid for 180
31 days from the date of assessment by the DRC. If there are changes to a proposed development's
32 timing, the proposed density or intensity increases, or if the preliminary CLSC expires, then an
33 amended CLSC must be obtained through the appropriate DRC process. An amended
34 preliminary CLSC is valid for 180 days from the date of reassessment by the DRC.
35

36 **Sec. 407.121. Concurrency reservations.**

37 (a) *Planned developments.* For projects associated with a phased planned development (PD),
38 the preliminary CLSC may be issued for time periods established by the phasing schedule of the
39 PD provided that the applicant demonstrates that LOS standards can be met for the time frames
40 established with the PD phasing plan. In no instance, may the CLSC for a phased PD be valid for
41 greater than a ten-year time frame.
42

43 (b) *Affordable housing developments.* For affordable housing developments, as defined in
44 chapter 410 of this ULDC, the preliminary CLSC may be issued for time periods established by
45 the phasing schedule associated with an approved preliminary development plan. The applicant
46 shall demonstrate that LOS standards can be met for the each of the time frames established with

1 the approved preliminary development plan. In no instance, may the CLSC for an affordable
2 housing project be valid for greater than a five-year time frame.

3
4 (c) *Village centers.* For traditional neighborhood developments (TND) containing a village
5 center (chapter 407, Article VII) the preliminary CLSC may be issued for time periods
6 established by the phasing schedule associated with an approved preliminary development plan.
7 The phasing schedule shall specify, as a percentage, that portion of the project that will be
8 completed at the end of each calendar year. The applicant shall demonstrate that LOS standards
9 can be met for each of the time frames established with the approved preliminary development
10 plan. In no instance, may the CLSC for a TND with a village center be valid for greater than a
11 five-year time frame.

12
13 **Sec. 407.122. Final certificate of level of service compliance.**

14 (a) The preliminary CLSC determination issued by the CMO may be submitted with an
15 application for final development order or plat approval as the basis for a final CLSC which shall
16 be issued by the CMO provided all of the following conditions are met:

- 17
18 (1) The final development order is submitted and determined to be complete by the
19 DRC prior to the expiration date of a valid preliminary CLSC.
20
21 (2) Any conditions identified in the preliminary CLSC are adequately addressed and
22 are contained in the final development order application.
23
24 (3) The intensities and densities requested for the final development order approval
25 do not exceed those approved for the preliminary plan, unless the applicant has
26 applied for and been issued an amended preliminary CLSC addressing the
27 impacts of the increased densities or intensities requested and finding that
28 adequate capacity will be available for each affected public facility. In order to
29 obtain an amended preliminary CLSC, the applicant must submit the proposed
30 increases in densities or intensities and relevant information to the DRC for an
31 amended preliminary CLSC to be issued. The amended preliminary CLSC
32 approval must be obtained by the applicant prior to application for final approval
33 by the DRC. If the DRC determines that revised preliminary review is not
34 required, an amended preliminary CLSC is not required for final development
35 order approval.
36

37 (b) The final CLSC shall be valid for a period of one year from date of issuance by the DRC,
38 unless otherwise specified for a phased PD, affordable housing project or TND with a village
39 center, after which it shall be void unless construction has commenced prior to expiration of the
40 one year period, or other period specified for a phased PD, affordable housing project or TND
41 with a village center, or an extension of no more than one (1) year has been granted by the CMO
42 for good cause (defined in chapter 410) shown by the applicant. Any such extension will be
43 issued only if no imminent or existing public facility deficiencies exist at the time of the
44 application for extension. Denial of an extension by the CMO may be appealed in accordance
45 with this ULDC. Provided that construction has commenced within the allowable period, the
46 project shall have reserved capacity for a period of no more than two years from commencement

1 of construction. After that two-year period, or any period otherwise specified in the final CLSC,
2 the public facility capacity required to accommodate the impacts of the unconstructed portions of
3 the development may be made available to other proposed developments applying for CLSCs.
4

5 **Sec. 407.123. Development orders requiring certificate.**

6 The following development orders and permits are subject to a determination that the
7 proposed development will not cause levels of service to fall below the county's adopted
8 standards for roads, potable water, sanitary sewer, stormwater management, parks, solid waste
9 and mass transit:
10

11 (a) An application for a final development order issued by the Alachua County DRC, where
12 the proposed final development order would authorize any change in the density, intensity,
13 location, land uses, capacity, size, or other aspects of the proposed development that could be
14 expected to result in additional impacts on public facilities; or
15

16 (b) An application for a mining, land excavation permit, or other permits for development
17 that do not undergo review by the DRC, that will affect one or more of the public facilities that
18 are subject to concurrency. Concurrency determinations for such permits will be limited to those
19 public facilities which the DRC or public works department determines will be impacted by the
20 proposed activity.
21

22 **Sec. 407.124. Exemptions from requirement for certificate.**

23 Issuance of the following development orders shall be exempt from the requirements for
24 obtaining a determination of capacity and a certificate of level of service compliance:
25

26 (a) Projects determined to be vested from pertinent concurrency requirements pursuant to
27 Chapter 402, Article 27, Vested Rights;
28

29 (b) A demolition permit;
30

31 (c) The initial permit for a temporary use;
32

33 (d) A flood prone area permit;
34

35 (e) A facility which by state or federal law is not subject to the concurrency requirements of
36 local land development regulations;
37

38 (f) Additions to existing single-family or duplex residential structures;
39

40 (g) Ancillary facilities to existing residential structures including pools, screen enclosures,
41 and utility sheds;
42

43 (h) Permits to bring existing structures into code compliance, including re-roofs; and
44

45 (i) Individual single-family residences and accessory building permits on existing lots of
46 record.

1 **Sec. 407.125. Denial of certificate.**

2 If it is determined that the requirements for concurrency cannot be met for any public
3 facility impacted for a proposed development, an initial CLSC denial notice identifying the
4 facilities that were determined not to be concurrent, the level of service deficiency and the
5 impact assessment that was the basis for that determination will be issued by the concurrency
6 management official and provided to the applicant.
7

8 (a) *Request for reconsideration.* Upon receipt of an initial CLSC denial notice, the applicant
9 may submit a request for reconsideration of initial CLSC denial to the concurrency management
10 official with a proposed alternative impact assessment demonstrating that impacts will not
11 violate concurrency management requirements. Any such request for reconsideration and the
12 accompanying documentation shall be submitted within 45 days of the issuance of the initial
13 CLSC denial notice and reviewed by the concurrency management official and approved or
14 denied within 45 days of the receipt of the request for reconsideration.
15

16 (b) *Proposal to address denial.* Upon receipt of an initial CLSC denial notice, the applicant
17 may submit a proposal to address an initial CLSC denial to the concurrency management
18 official. Such proposal will identify proposed options to remedy the deficiency or deficiencies
19 identified by the county as the basis for the initial CLSC denial. These options may include:
20

- 21 (1) Modification of the density, intensity, or timing of the proposed development with
22 identification of how the modifications will remedy the deficiency that was the
23 basis for the initial CLSC denial; or
24
- 25 (2) Measures to mitigate the deficiency, including an action plan to reduce the
26 impacts of the proposed development on the affected public facilities that were
27 determined not to be concurrent; such action plans may include special demand
28 management measures to be incorporated as conditions of the final development
29 order; or
30
- 31 (3) Proposed improvements to the affected public facility that will be sufficient to
32 offset the impacts of the proposed development resulting in the failure to meet
33 concurrency. Such improvements may be included by the applicant as part of a
34 development agreement or proposed as an amendment to the comprehensive plan
35 in the form of projects to be included in the capital improvement program of the
36 comprehensive plan or amendments to adopted level of service standards; or
37
- 38 (4) Pay a proportionate fair-share contribution as defined in Sec. 407.126 of this
39 chapter.
40

41 (c) *Response to proposal.* The CMO shall respond to the proposal within 45 days of receipt
42 with an indication of whether the proposal, if implemented, would allow the proposed
43 development to meet the concurrency requirement. If the proposal would require further action
44 by the DRC or by the board of county commissioners, the applicant will be informed of the
45 process to be followed to apply for such approval.
46

1 **Sec. 407.126. Proportionate Fair Share Contribution.**

2 (a) Purpose and Intent. The purpose of this ordinance is to establish a method whereby the
3 impacts of development on transportation facilities can be mitigated by the cooperative efforts of
4 the public and private sectors, to be known as the Proportionate Fair-Share Program, as required
5 by and in a manner consistent with §163.3180(16), F.S.
6

7 (b) Findings. Alachua County finds and determines that transportation capacity is a
8 commodity that has a value to both the public and private sectors and the Alachua County
9 Proportionate Fair-Share Program:

- 10
- 11 (1) Provides a method by which the impacts of development on transportation
12 facilities can be mitigated by the cooperative efforts of the public and private
13 sectors;
- 14
- 15 (2) Allows developers to proceed under certain conditions, notwithstanding the
16 failure of transportation concurrency, by contributing their proportionate fair-
17 share of the cost of transportation facilities;
- 18
- 19 (3) Contributes to the provision of adequate public facilities for future growth and
20 promotes a strong commitment to comprehensive facilities planning, thereby
21 reducing the potential for moratoria or unacceptable levels of traffic congestion;
22
- 23 (4) Maximizes the use of public funds for adequate transportation facilities to serve
24 future growth, and may, in certain circumstances, allow Alachua County to
25 expedite transportation improvements by supplementing funds currently allocated
26 for transportation improvements in the Comprehensive Plan Capital Improvement
27 Element (CIE).
- 28
- 29 (5) Is consistent with §163.3180(16), F.S., and supports the policies in the Alachua
30 County Comprehensive Plan Policy 1.1.8 of the Transportation Mobility Element
31 and Capital Improvements Element.
32

33 (c) Applicability. The Proportionate Fair-Share Program shall apply to all developments in
34 Alachua County that have been notified of a lack of capacity to satisfy transportation
35 concurrency on a transportation facility in the Alachua County Concurrency Management
36 System (CMS), including transportation facilities maintained by FDOT or another jurisdiction
37 that are relied upon for concurrency determinations. The Proportionate Fair-Share Program does
38 not apply to developments of regional impact (DRIs) using proportionate share under
39 §163.3180(12), F.S., developments exempted from concurrency as provided in Policy 1.1.8 of
40 the Alachua County Comprehensive Transportation Mobility Element, or developments
41 exempted in 407.124 above.

1 (d) Fair-Share Mitigation Options.

2
3 (1) An applicant may choose to satisfy the transportation concurrency requirements
4 of Alachua County by making a proportionate fair-share contribution, pursuant to
5 the following requirements:

6
7 a. The proposed development is consistent with the Alachua County
8 Comprehensive Plan and applicable Unified Land Development Code
9 (ULDC) regulations.

10
11 b. The five-year schedule of capital improvements in the Alachua County
12 Comprehensive Plan Capital Improvements Element (CIE) or the long-
13 term schedule of capital improvements for an adopted long-term
14 Concurrency Management System (CMS) includes a transportation
15 improvement(s) that, upon completion, will satisfy the requirements of the
16 Alachua County Concurrency Management System (CMS). The
17 provisions of Section 407.125.1(d)2. may apply if a project or projects
18 needed to satisfy concurrency are not presently contained within the
19 Alachua County Comprehensive Plan Capital Improvements Element or
20 an adopted long-term schedule of capital improvements.

21
22 (2) Alachua County may choose to allow a Developer to satisfy transportation
23 concurrency through the Proportionate Fair-Share Program by contributing to an
24 improvement that, upon completion, will satisfy the requirements of the Alachua
25 County Concurrency Management System (CMS), but is not contained in the
26 five-year schedule of capital improvements in the Alachua County
27 Comprehensive Plan Capital Improvements Element Plan or a long- term
28 schedule of capital improvements for an adopted long-term Concurrency
29 Management System (CMS), where the following apply:

30
31 a. Alachua County adopts, by resolution or ordinance, a commitment to add
32 the improvement to the five-year schedule of capital improvements in the
33 Alachua County Comprehensive Plan Capital Improvements Element
34 (CIE) or long-term schedule of capital improvements for an adopted long-
35 term CMS no later than the next regularly scheduled update. To qualify
36 for consideration under this section, the proposed improvement must be
37 reviewed by the Alachua County Board of County Commissioners, and
38 determined to be financially feasible pursuant to §163.3180(16) (b) 1,
39 F.S., consistent with the Alachua County Comprehensive Plan, and in
40 compliance with the provisions of this Ordinance. Financial feasibility for
41 this section means that additional contributions, payments or funding
42 sources are reasonably anticipated during a period not to exceed 10 years
43 to fully mitigate impacts on the transportation facilities.

44
45 b. If the funds identified in the five-year Alachua County Comprehensive
46 Plan (CIE) or financially feasible adopted long-term CMS are insufficient

1 to fully fund construction of a transportation improvement required by the
2 CMS, Alachua County may still enter into a binding proportionate fair-
3 share Agreement with the Developer authorizing construction of that
4 amount of development on which the proportionate fair-share is calculated
5 if the proportionate fair-share amount in such Agreement is sufficient to
6 pay for one or more improvements which will, in the opinion of the
7 governmental entity maintaining the transportation facilities, significantly
8 benefit the impacted transportation system. The improvement(s) funded by
9 the proportionate fair-share Agreement shall be adopted into the five-year
10 CIE or the long-term schedule of capital improvements for an adopted
11 long-term CMS at the next annual CIE update.

12
13 c. Any transportation capacity project proposed to meet the Developer's fair-
14 share obligation must meet the design standards of both Alachua County
15 and FDOT.

16
17 (e) Intergovernmental Coordination. Pursuant to policies in the Intergovernmental
18 Coordination Element of the Alachua County Comprehensive Plan, Alachua County shall
19 coordinate with affected jurisdictions, including FDOT, regarding mitigation to impacted
20 facilities not under the jurisdiction of the local government receiving the application for
21 proportionate fair-share mitigation. An interlocal Agreement may be established with other
22 affected jurisdictions for this purpose. The interlocal Agreement may include provisions to allow
23 for local governments to provide Alachua County proportionate fair-share contributions from
24 Developers to address deficiencies on County maintained roadways that are within the boundary
25 of a local jurisdiction or are impacted by development within the local jurisdiction. Pursuant to
26 §163.3180(16) (e), F.S., proposed proportionate fair-share mitigation for development impacts to
27 facilities on the Strategic Intermodal System (SIS) requires the concurrence of the FDOT.

28
29 (f) Application Process.

30
31 (1) Upon notification of a lack of capacity to satisfy transportation concurrency, the
32 applicant shall also be notified in writing of the opportunity to satisfy
33 transportation concurrency through the Proportionate Fair-Share Program.

34
35 (2) Prior to submitting an application for a proportionate fair-share agreement, a pre-
36 application meeting shall be held to discuss eligibility, application submittal
37 requirements, potential mitigation options, and related issues. If the impacted
38 facility is on the Strategic Intermodal System (SIS), then the FDOT will be
39 notified and invited to participate in the pre-application meeting.

40
41 (3) Eligible applicants shall submit an application to Alachua County that includes an
42 application fee and the following information:

43
44 a. Name, address and phone number of owner(s), developer and agent;

45 b. Property location, including parcel identification numbers;

46 c. Legal description and survey of property;

- d. Project description, including type, intensity and amount of development;
- e. Phasing schedule, if applicable;
- f. Trip generation and distribution analysis
- g. Description of requested proportionate fair-share mitigation method(s)

(4) The Concurrency Management Official shall review the application and certify that the application is sufficient and complete within 15 business 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 within 15 business days of submittal of the application. If such deficiencies are not remedied by the Applicant within 30 days of receipt of the written notification, then the application will be deemed abandoned. The Concurrency Management Official 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 effect a cure.

(5) Pursuant to §163.3180(16) (e), F.S., proposed proportionate fair-share mitigation for development impacts to facilities on the SIS requires the concurrence 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.

(6) 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 Applicant with direction from Alachua County and delivered to the appropriate parties for review, including a copy to the FDOT for any proposed proportionate fair-share mitigation on a SIS facility, no later than 60 days from the date at which the Applicant received the notification of a sufficient application and no fewer than 30 days prior to the Alachua County Board of County Commissioners meeting when the Agreement will be considered.

(7) Alachua County shall notify the Applicant regarding the date of the Alachua County Board of County Commissioners meeting when the agreement will be considered for final approval. No proportionate fair-share Agreement will be executed until approved by the Board of County Commissioners and final development plan approval has been granted. Approval of the Agreement shall not be binding upon the decision on the application for final development plan approval.

(8) The Public Notice requirement for a proportionate fair-share Agreement shall be the same as the public notice requirements for Development Plans as stated in Chapter 402, Article 4 Public Hearings Table 402.12.1.

1 (g) Determining Proportionate Fair-Share Obligation

2
3 (1) Proportionate fair-share mitigation for concurrency impacts may include, without
4 limitation, separately or collectively, private funds, contributions of land, and
5 construction and contribution of facilities.

6
7 (2) A development shall not be required to pay more than its proportionate fair-share.
8 The fair market value of the proportionate fair-share mitigation for the impacted
9 facilities shall not differ regardless of the method of mitigation.

10
11 (3) The methodology used to calculate an Applicant's proportionate fair-share
12 obligation shall be as provided for in Section 163.3180 (12), F. S., as follows:

13
14 "The cumulative number of Peak Hour trips from the proposed development
15 expected to reach the impacted roadways from the complete build out of a stage
16 or phase being approved, divided by the change in the Peak Hour Maximum
17 Service Volume (MSV) of roadways resulting from construction of an
18 improvement necessary to maintain the adopted LOS, multiplied by the
19 construction cost, at the time of developer payment, of the improvement
20 necessary to maintain the adopted LOS."

21
22 OR

23
24 Proportionate Fair Share = $\sum [(\text{Development Trips}_i) / (\text{SV Increase}_i)] \times \text{Cost}_i]$

25
26 Where:

27
28 Development Trips i = Total number of trips from the stage or phase of
29 development under review (minus pass-by, internal capture, and multi-modal
30 trips) that are assigned to roadway segment "i" and have triggered a deficiency
31 per the CMS;

32
33 SV Increase i = The increase in capacity provided by the improvement to roadway
34 segment "i" (The FDOT Generalized Tables shall be used to establish the base
35 capacity and future year capacity with improvements);

36
37 Cost i = Cost of the additional capacity. Cost shall include all improvements and
38 associated costs, such as design, right-of-way acquisition, planning, engineering,
39 maintenance of traffic, utility relocation, inspection, contingencies, stormwater
40 facilities, turn lanes, traffic control devices, bicycle and pedestrian facilities, and
41 physical development costs directly associated with construction at the anticipated
42 cost in the year it will be incurred.

43
44 (4) The methodology used to calculate an Applicant's proportionate fair-share
45 obligation for stand alone intersection improvements shall be as follows:
46

1 “The cumulative number of trips from the proposed development expected to
2 reach the impacted intersection during peak hours from the complete build out of
3 a stage or phase being approved, divided by the change in the peak hour
4 maximum service volume (MSV) of the intersection resulting from construction
5 of an improvement necessary to maintain the adopted LOS, multiplied by the
6 construction cost, at the time of developer payment, of the improvement
7 necessary to maintain the adopted LOS. The LOS for intersections shall be
8 determined based upon all movements operating at a volume to capacity ratio of
9 1.0 or less, the overall intersection shall operate at the least restrictive LOS
10 standard for the intersecting roadways, and the left turn storage length shall be
11 adequate to accommodate the average traffic queue.”

12
13 OR

14
15
$$\text{Proportionate Fair-Share} = \sum [[\text{Peak Hour Development Trips}_i] / (\text{Additional}$$

16
$$\text{Capacity}_i)] \times \text{Cost}_i]$$

17
18 Where:

19
20 Development Trips i = Total number of trips from the stage or phase of
21 development under review (minus pass-by, internal capture, and multi-modal
22 trips) that reach the impacted intersection “i” and have triggered a deficiency per
23 the CMS;

24
25 Additional Capacity i = The increase in capacity shall be obtained by subtracting
26 the lane group capacity of the improved intersection minus the lane group
27 capacity of the unimproved intersection;

28
29 Cost i = Adjusted cost of the improvement to intersection “i”. Cost shall include
30 all improvements and associated costs, such as design, right-of-way acquisition,
31 planning, engineering, maintenance of traffic, utility relocation, inspection,
32 contingencies, stormwater facilities, turn lanes, traffic control devices, bicycle and
33 pedestrian facilities, and physical development costs directly associated with
34 construction at the anticipated cost in the year it will be incurred.

35
36 (5) Within Multi-Modal Transportation Districts (MMTD) proportionate fair-share
37 assessments shall be based on the expected costs and transportation benefits of all
38 the required multi-modal improvements within the MMTD.

39
40 The proportionate fair-share assessment shall be based on the percentage of
41 proposed development trips divided by the total number of trips projected for the
42 District times the cost to provide all needed mobility improvements. The
43 methodology used to calculate an applicant’s proportionate fair-share obligation
44 within a Multi-Modal Transportation Districts (MMTD) shall be as follows:
45

1 Proportionate Fair-Share = [(Total Development Trips) / (Total MMTD Trips)
2] x Cost

3
4 Where:

5
6 Development Trips = The total number of development trips, minus the
7 percentage of passer-by, internal capture, and multi-modal trips;

8
9 Total MMTD Trips = The total number of projected trips for the MMTD based
10 upon a reasonable build-out analysis, minus the percentage of passer-by, internal
11 capture, and multi-modal trips established for the MMTD;

12
13 Cost = Adjusted cost of the needed mobility improvements within the District.
14 Mobility improvements shall include all roadway, bicycle, pedestrian, and transit
15 improvements needed to ensure mobility. Cost shall include all improvements and
16 associated costs, such as design, right-of-way acquisition, planning, engineering,
17 maintenance of traffic, utility relocation, inspection, contingencies, stormwater
18 facilities, turn lanes, traffic control devices, bicycle, pedestrian, and transit
19 facilities, and physical development costs directly associated with construction at
20 the anticipated cost in the year it will be incurred.

21
22 (6) For the purposes of determining proportionate fair-share obligations, Alachua
23 County shall determine improvement costs based upon the actual cost of the
24 improvement as obtained from the Capital Improvements Plan, the MTPO
25 Transportation Improvement Program or the FDOT Work Program. Where such
26 information is not available, improvement cost shall be determined using one of
27 the following methods:

28
29 (a) An analysis by Alachua County of costs by cross section type that
30 incorporates data from recent projects and is updated annually and
31 approved by the Alachua County Board of County Commissioners or the
32 Concurrency Administrator. In order to accommodate increases in
33 construction material costs, project costs shall be adjusted by FDOT
34 Construction Cost Inflation Forecast; or

35
36 (b) The most recent issue of FDOT *Transportation Costs*, as adjusted based
37 upon the type of cross-section (urban or rural); locally available data from
38 recent projects on acquisition, drainage and utility costs; and significant
39 changes in the cost of materials due to unforeseeable events. Cost
40 estimates for state road improvements not included in the adopted FDOT
41 Work Program shall be determined using this method in coordination with
42 the FDOT District.

43
44 (7) If Alachua County has accepted an improvement project proposed by the
45 Applicant, then the value of the improvement shall be determined using one of the
46 methods provided in this section

1 (8) If Alachua County has accepted right-of-way dedication for the proportionate fair-
2 share payment, credit for the dedication of the non-site related right-of-way shall
3 be valued on the date of the dedication at 120 percent of the most recent assessed
4 value by the Alachua County Property Appraiser or, at the option of the applicant,
5 by fair market value established by an independent appraisal approved by
6 Alachua County and at no expense to Alachua County. The applicant shall
7 dedicate the right-of-way to Alachua County per all applicable County
8 requirements at no expense to Alachua County.

9
10 (h) *Proportionate Fair-Share Agreement.*

11
12 (1) The Applicant shall provide a draft Proportionate Fair-Share Agreement to
13 Alachua County which contains all required documentation within this section
14 prior to issuance of a Preliminary Certificate of Level of Service Compliance. If
15 the draft Agreement is acceptable to Alachua County, then a Preliminary
16 Certificate of Level of Service Compliance may be issued with the condition that,
17 “Prior to the issuance of a Final Certificate of Level of Service Compliance, the
18 Applicant shall enter into a Binding Proportionate Fair-Share Agreement
19 approved by the Alachua County Board of County Commissioners.”

20
21 (2) Upon acceptance by the Alachua County Board of County Commissioners of a
22 Proportionate Fair-Share Agreement the Applicant shall receive a Final
23 Certificate of Level of Service Compliance consistent with the provisions of
24 407.122 above. Should the applicant fail to apply for a final development permit
25 within 12 months, or as otherwise established in a binding Agreement, then the
26 Agreement shall be considered null and void, and the Applicant shall be required
27 to reapply.

28
29 (3) Applicants may submit a letter to withdraw from the Proportionate Fair-Share
30 Agreement at any time prior to the execution of the Agreement. The Application
31 fee and any associated advertising costs to Alachua County will be non
32 refundable. The Applicant will lose its Preliminary Certificate of Level of Service
33 Compliance approval upon withdrawal Proportionate Fair-Share Agreement

34
35 (4) The Proportionate Fair-Share Agreement shall specify the following:

36
37 a. The Payment of the proportionate fair-share contribution shall be due in
38 full prior to issuance of the final development order or recording of the
39 final plat and shall be non-refundable. If the payment is submitted more
40 than 12 months from the date of execution of the Agreement, then the
41 proportionate fair-share cost shall be recalculated at the time of payment
42 based on the best estimate of the construction cost of the required
43 improvement at the time of payment and adjusted accordingly. The
44 acceptable form of payment of the contribution shall also be specified.

- 1 b. All developer transportation capacity projects authorized under this
2 ordinance must be completed prior to issuance of a building permit, or as
3 otherwise established in a binding Agreement that is accompanied by a
4 security instrument that is sufficient to ensure the completion of all
5 required improvements. It is the intent of this section that any required
6 improvements be completed before issuance of building permits.
7
8 c. Dedication of necessary right-of-way for transportation capacity projects
9 pursuant to a Proportionate Fair-Share Agreement shall be completed prior
10 to issuance of the final development order or recording of the final plat.
11 The dedication and supporting documentation shall be completed at no
12 expense to Alachua County,
13
14 d. Any requested change to a development project subsequent to a
15 development order may be subject to additional proportionate fair-share
16 contributions to the extent the change would generate additional traffic
17 that would require mitigation.
18
19 e. Time frame that the Development is vested for concurrency, to include
20 any phasing provisions or development thresholds.
21
22 f. Process for addressing amendments to the Agreement after the Agreement
23 has been accepted by the Alachua County Board of County
24 Commissioners.
25
26 g. Provisions for withdrawal of the Agreement after the Agreement
27 has been accepted by the Alachua County Board of County
28 Commissioners. Upon commencement of development, withdrawal shall
29 not be allowed unless the Applicant can clearly demonstrate that the
30 development commenced has complied with all applicable Concurrency
31 requirements and that the traffic impact of the development has been
32 acceptably mitigated.
33

34 (5) Alachua County may enter into Proportionate Fair-Share Agreement with
35 multiple Applicants for selected corridor capacity projects to facilitate
36 collaboration with multiple Applicants and allow for shared transportation
37 capacity projects.
38

39 (6) Pursuant to §163.3180(16) (e), F.S., proposed proportionate fair-share mitigation
40 for development impacts to facilities on the SIS requires the concurrence of the
41 Florida Department of Transportation.
42

43 (i) *Appropriation of Proportionate Fair-Share Revenues.*
44

45 (1) Proportionate fair-share contributions shall be placed in the appropriate project
46 account for funding of scheduled improvements in the five-year Capital

1 Improvement Plan or Long Term Concurrency Management System Plan, or as
2 otherwise established in the terms of the proportionate fair-share agreement. At
3 the discretion of the local government, proportionate fair-share revenues may be
4 used for operational improvements prior to construction of the capacity project
5 from which the proportionate fair-share revenues were derived. Proportionate
6 fair-share revenues may also be used as the 50% local match for funding under
7 the FDOT Transportation Regional Incentive Program (TRIP).
8

9 (2) In the event a scheduled facility improvement is removed from the five-year
10 Capital Improvement Plan or Long Term Concurrency Management System Plan,
11 then the revenues collected for its construction may be applied toward the
12 construction of another improvement within that same corridor or sector that
13 would mitigate the impacts of development.
14

15 (3) Where an impacted regional facility has been designated as a regionally
16 significant transportation facility in an adopted regional transportation plan as
17 provided in Section 339.155, F.S., Alachua County may coordinate with other
18 impacted jurisdictions and agencies to apply proportionate fair-share contributions
19 and public contributions to seek funding for improving the impacted regional
20 facility under the FDOT TRIP. Such coordination shall be ratified by the Alachua
21 County Board of County through an interlocal agreement that establishes a
22 procedure for earmarking of the developer contributions for this purpose.
23

24 (4) Where a Developer constructs a transportation facility that exceeds the
25 Developer's proportionate fair-share obligation, Alachua County may elect to
26 establish an account for the Developer for the purpose of reimbursing the
27 Developer for the excess contribution with proportionate fair-share payments
28 from future Developments that impact the transportation facility.
29

30 (j) *Cross-Jurisdictional Impacts.*
31

32 (1) In the interest of intergovernmental coordination and to acknowledge the shared
33 responsibilities for managing development and concurrency, Alachua County may
34 enter into an Interlocal Agreement with one or more adjacent local governments
35 to address cross jurisdictional impacts of development on regional transportation
36 facilities. The Agreement shall provide for application of the methodology in this
37 Subsection to address the cross-jurisdictional transportation impacts of
38 development.
39

40 (2) A development application submitted to Alachua County subject to a
41 transportation concurrency determination meeting all of the following criteria
42 shall be subject to this subsection:
43

44 a. All or part of the proposed development is located within one (1) mile of
45 the area which is under the jurisdiction, for transportation concurrency, of

1 an adjacent local government with which Alachua County has entered into
2 an Interlocal Agreement per the provisions of paragraph (1) above; and

3
4 b. Using its own concurrency analysis procedures, Alachua County
5 concludes that the additional traffic from the proposed development would
6 use five (5) percent or more of the Florida Department of Transportation
7 Generalized Tables maximum service volume at the adopted LOS
8 standard of a regional transportation facility within the concurrency
9 jurisdiction of the adjacent local government (“impacted regional
10 facility”); and

11
12 c. The impacted regional facility is projected to be operating below the level
13 of service standard, adopted by the adjacent local government, when the
14 traffic from the proposed development is included.

15
16 (3) Upon identification of an impacted regional facility, Alachua County shall notify
17 the Applicant and the affected adjacent local government in writing of the
18 opportunity to derive an additional proportionate fair-share contribution, based on
19 the projected impacts of the proposed development on the impacted adjacent
20 facility.

21
22 a. The adjacent local government shall have up to ninety (90) days in which
23 to notify Alachua County of a proposed specific proportionate fair-share
24 obligation, and the intended use of the funds when received. The adjacent
25 local government must provide reasonable justification that both the
26 amount of the payment and its intended use comply with the requirements
27 of Section 163.3180(16), F.S. should the adjacent local government
28 decline proportionate fair-share mitigation under this Section, the
29 provisions of this Subsection would not apply.

30
31 b. If the subject application is subsequently approved by Alachua County,
32 the approval shall include a condition that the Applicant provides, as
33 specified in the Proportionate Fair-Share Agreement, evidence that the
34 proportionate fair-share obligation to the adjacent local government has
35 been satisfied. Alachua County may require the adjacent local
36 government to declare, in a resolution, ordinance, or equivalent document,
37 its intent for the use of the concurrency funds to be paid by the Applicant.

38
39 (k) Impact Fee Credit. Impact Fee Credits for proportionate fair-share contributions shall
40 be provided per the Alachua County Impact Fee Ordinance and shall be consistent with
41 §163.3180 (16) (b.) 2., F.S.

42
43 **Sec. 407.1276. Appeals.**

44 Any person with legal standing who wishes to challenge a final CLSC or a proportionate
45 share final determination may do so in accordance with the procedures outlined in chapter 402,
46 article XXVIII, Appeal Procedures.

1 | **Sec. 407.1287. Enforcement.**

2 A violation of this chapter shall be a misdemeanor punishable according to law; however,
3 in addition to or in lieu of any criminal prosecution, Alachua County shall have the power to sue
4 in civil court to enforce the provisions of this chapter. Violations of this Chapter may also be
5 referred to the Alachua County Codes Enforcement Board for enforcement in accordance with
6 F.S. ch. 162 and chapter 24 of the Alachua County Code of Ordinances, which relate to the codes
7 enforcement board.

8
9 Section 2. Severability. If any section, phrase, sentence or portion of this ordinance is
10 for any reason held invalid or unconstitutional by any court of competent jurisdiction, such
11 portion shall be deemed a separate, distinct and independent provision, and such holding shall
12 not affect the validity of the remaining portions thereof.

13 Section 3. Repealing Clause. All ordinances or parts of ordinances in conflict herewith
14 are, to the extent of such conflict, hereby repealed.

15 Section 4. Inclusion in the Code, Scrivener's Error. It is the intention of the Board of
16 County Commissioners of Alachua County, Florida, and it is hereby provided that the provisions
17 of this ordinance shall become and be made a part of the Code of Laws and Ordinances of
18 Alachua County, Florida; that the sections of this ordinance may be renumbered or relettered to
19 accomplish such intention; and that the word "ordinance" may be changed to "section," "article,"
20 or other appropriate designation. The correction of typographical errors which do not affect the
21 intent of the ordinance may be authorized by the County Manager or designee without public
22 hearing, by filing a corrected or recodified copy of the same with the Clerk of the Circuit Court.

23 Section 5. Ordinance to be Liberally Construed. This ordinance shall be liberally
24 construed in order to effectively carry out the purposes hereof which are deemed not to adversely
25 affect public health, safety, or welfare.

26 Section 6. Effective Date. A certified copy of this ordinance shall be filed with the
27 Department of State by the Clerk of the Board of County Commissioners within ten (10) days

1 after enactment by the Board of County Commissioners, and this ordinance shall take effect
2 upon filing with the Department of State.

3 DULY ADOPTED in regular session, this 14th day of November, 2006.

4 BOARD OF COUNTY COMMISSIONERS OF
5 ALACHUA COUNTY, FLORIDA

6
7 ATTEST:

8 By: _____
9 Paula DeLaney, Chair

10 _____
11 J. K. Buddy Irby, Clerk

12 APPROVED AS TO FORM

13
14 _____
15 County Attorney

16 (SEAL)

17
18 APPROVED AS TO FORM

19
20 _____
21 Rick Drummond, Director
22 Growth Management

23
24
25
26
27 EEH\ORDS\ConcurrencyManagementSignature.doc
28 Final for Signature 11/15/06
29