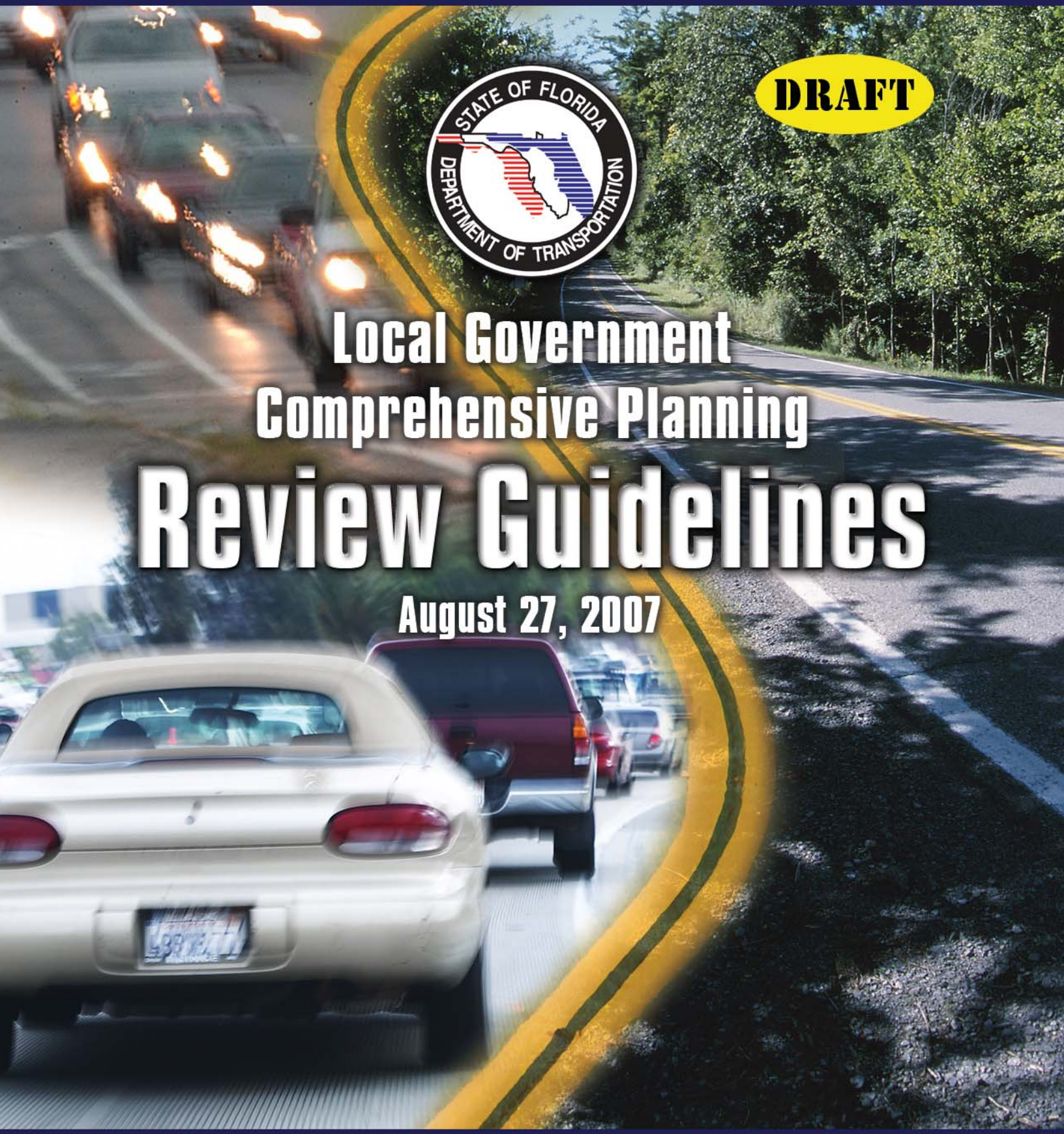
Prepared For

Florida Department of Transportation District Five



Local Government Comprehensive Planning Review Guidelines

August 27, 2007

Prepared By

Kimley-Horn and Associates, Inc.

TABLE OF CONTENTS

SECTION 1
INTRODUCTION 1

SECTION 2
FUTURE LAND USE ELEMENT TEXT AND MAP AMENDMENTS 2
Overview 2
FDOT Statutory Authority 2
FDOT Information Needs 3
FDOT Review Criteria 4
FDOT Review Guidelines 4

SECTION 3
EVALUATION AND APPRAISAL REPORTS 12
Overview 12
FDOT Statutory Authority 12
FDOT Information Needs 13
FDOT Review Criteria 14
FDOT Review Guidelines 14

SECTION 4
CONCURRENCY MANAGEMENT SYSTEMS 18
Overview 18
FDOT Statutory Authority 18
FDOT Information Needs 19
FDOT Review Criteria 19
FDOT Review Guidelines 19

SECTION 5
PROPORTIONATE FAIR-SHARE AGREEMENTS 24
Overview 24
FDOT Statutory Authority 25
FDOT Information Needs 26
FDOT Review Criteria 26
FDOT Review Guidelines 26

SECTION 6
TRANSPORTATION CONCURRENCY EXCEPTION AREAS 31
Overview 31
FDOT Statutory Authority 33
FDOT Information Needs 34
FDOT Review Criteria 35
FDOT Review Guidelines 35

SECTION 7
LONG TERM TRANSPORTATION CONCURRENCY MANAGEMENT SYSTEMS 43
Overview 43
FDOT Statutory Authority 44
FDOT Information Needs 45
FDOT Review Criteria 46
FDOT Review Guidelines 46

SECTION 8
MULTIMODAL TRANSPORTATION DISTRICTS 53
Overview 53
FDOT Statutory Authority 54
FDOT Information Needs 55
FDOT Review Criteria 56
FDOT Review Guidelines 57

SECTION 9
OTHER TRANSPORTATION ELEMENT AMENDMENTS 64
Overview 64
FDOT Statutory Authority 64
FDOT Information Needs 65
FDOT Review Criteria 65
FDOT Review Guidelines 66

APPENDIX

A – Future Land Use Element Screening Calculations
B – FAC Chapter 9J-5
C – FAC Chapter 9J-11
D – FAC Chapter 14-94
E – FS 163.3180
F – Evacuation Route Maps
G – Model Proportionate Fair-Share Agreement

H:\049110036_Guidelines\Task3-Guidelines\08_2007_Draft\Draft Guidebook_08_2007_r1.doc

SECTION 1

INTRODUCTION

The Florida Department of Transportation (FDOT) is a review agency for various local government comprehensive planning products. These review guidelines have been developed to assist FDOT District Five staff in their review of comprehensive planning documents.

While this document is primarily for FDOT staff, it has been made available to local governments, other review agencies and others involved in local government comprehensive planning in an effort to communicate FDOT's intentions and methods for reviewing various documents.

This document identifies the guidelines for FDOT District Five to review the following:

- ☐ Future Land Use Element Text and Map (FLUM) Amendments;
- ☐ Evaluation and Appraisal Reports (EAR);
- ☐ Concurrency Management Systems (CMS);
- ☐ Proportionate Fair-Share Agreements;
- ☐ Transportation Concurrency Exception Areas (TCEA);
- ☐ Long Term Transportation Concurrency Management Systems (LTTCMS);
- ☐ Multimodal Transportation Districts (MMTD); and,
- ☐ Other Transportation Element Amendments.

For each effort, the FDOT statutory authority, information needs, review criteria and guidelines for reviewing this information is identified.

Please note that at this time, this is a draft document. Any comments and/or recommendations by users will be appreciated. These can be sent to:

Judy Pizzo
Systems Planner, Intermodal Systems Development
FDOT District 5, Orlando Urban Office
133 South Semoran Boulevard
Orlando, FL 32807
Phone: 407-482-7880
Email: Judy.Pizzo@dot.state.fl.us

SECTION 2

FUTURE LAND USE ELEMENT TEXT AND MAP AMENDMENTS

Overview

Local governments are required to transmit comprehensive plan amendments to FDOT for small and large scale text and map amendments. The local government may request a review by the Department of Community Affairs (DCA) of the small scale amendment. A review is required for all large scale amendments, and FDOT must provide comments to DCA within 30 days of receipt of the proposed amendment. The FDOT review is intended to focus on the state transportation system and the impacts of the proposed plan or text amendments on the state transportation system. FLUM amendments have the greatest potential to impact the state transportation system.

FDOT Statutory Authority

Florida Statutes (FS)

- ☐ FS 163.3184(3) Local Government Transmittal of Proposed Plan or Amendment, Paragraph (a) requires local governments to transmit the complete proposed comprehensive plan or plan amendment to FDOT.

- ☐ FS 163.3184(4) Intergovernmental Review, requires FDOT to provide comments to DCA within 30 days of receipt of the complete proposed plan amendment.

- ☐ FS 334.044 establishes that FDOT has the responsibility for coordinating the planning of a safe, viable, and balanced state transportation system serving all regions of the state, and to assure the compatibility of all components, including multimodal facilities.

- ☐ FS 380.06(6) Application For Approval of Development; Concurrent Plan Amendments, requires any local government comprehensive plan amendments related to a development of regional impact (DRI) to be considered by the local government at the same time as the DRI.

Florida Administrative Code (FAC)

- ☐ FAC 9J-5 (copy provided in ***Appendix B***) describes the minimum criteria (data and analysis) for review of local government comprehensive plans and plan amendments, evaluation and appraisal reports, land development regulations (LDRs), and determinations of compliance.

- ☐ FAC 9J-11 (copy provided in ***Appendix C***) describes procedures governing the submittal and review of local government comprehensive plans and amendments.

- ☐ FAC Chapter 14-94 (copy provided in ***Appendix D***) establishes the FDOT LOS standards for SIS (including SIS Connectors and Emerging SIS), FIHS, and TRIP-funded facilities.

FDOT Information Needs

The following information should be provided with the proposed amendment. Note that the DCA has five days to determine if the material submitted with the comprehensive plan amendment is complete; therefore, it is important for FDOT to notify DCA within this same period if the information submitted is not sufficient for evaluating the impacts of the proposed amendment.

- ☐ Description of proposed land use plan or text change (existing and proposed, as well as the acreage for the area and maximum densities/intensities for each land use, including distribution for mixed uses).

- ☐ Map of proposed land use change and surrounding study area, including roadway network and study area.

- ☐ Transportation impact analysis of the availability of facilities and services as identified in the local government's transportation element consistent with the FAC 9J-5.019. See section "FDOT Review Guidelines" below for procedures to evaluate transportation impacts.

    - o If used, copies of travel demand model files used in the analysis (five-year and long-range). This information can be requested from the applicant separate from the amendment package.

    - o Copies of analysis spreadsheets, including a narrative of the assumptions for the densities/intensities of the land use relative to the trip generation/capture. This information can be requested from the applicant separate from the amendment package.

Additional information (as appropriate) available from FDOT resources relevant to the review of the proposed amendment includes:

- ☐ Latest FDOT Florida traffic information (for most recent traffic counts, historic trends, annual average daily traffic [AADT] forecasts), or appropriate relevant data from local sources

- ☐ Relevant information from the Quality/Level of Service (Q/LOS) Handbook and 2007 LOS Issue Papers

- ☐ FDOT TIPS (Trip Generation, Internal Capture, and Pass-By) Software

- ☐ Relevant information from the Institute of Transportation Engineers (ITE) *Trip Generation* documents

- ☐ Relevant information from the ITE *Trip Generation Handbook*

- ☐ Maps and/or tables identifying Florida Intrastate Highway System (FIHS), Strategic Intermodal System (SIS), Emerging SIS, and Transportation Regional Incentive Program (TRIP)-funded facilities

FDOT Review Criteria

The following criteria should be considered:

- ☐ Type of land use change, density, and intensity
- ☐ Trip generation
- ☐ Internal trip capture
- ☐ Pass-by trips
- ☐ Transit trips
- ☐ Trip distribution and assignment
- ☐ Study area
- ☐ Background traffic
- ☐ Total traffic
- ☐ Short-term (five-year) analysis
- ☐ Long-term (at least 10 years) analysis
- ☐ Required mitigation
- ☐ Demonstrated financial feasibility of required mitigation

A description of how these criteria should be considered is provided in the following guidelines.

FDOT Review Guidelines

Screening process

First, review the transportation impact analysis submitted with the comprehensive plan amendment. If the analysis identifies any level-of-service (LOS) deficiencies on the state highway system, it should be reviewed for accuracy (following the process identified below in the section "Evaluating the Transportation Impacts") to determine the extent of the deficiency and the appropriate mitigation.

In an effort to eliminate unnecessary detailed reviews of proposed amendments, the following steps should be taken if the transportation impact analysis submitted with the comprehensive plan amendment does not identify any LOS deficiencies on the state highway system:

1. Identify the net new daily and peak hour (two-way) external trip generation for the existing and proposed future land use based on the maximum intensity and density. The external trip generation should consider adjustments to account for

internal and pass-by trips. If the proposed future land use generates fewer external trips (for both daily and peak hour) than the existing future land use, no further review is necessary. If either (or both) the daily or peak hour external trips for the proposed are greater than the existing future land use, continue to Step 2.

2. Identify the net new daily and peak hour peak direction (PHPD) external trip generation for the proposed future land use (total traffic, not the difference between existing and proposed). This should be based on the maximum intensity and density and should include making adjustments to account for internal and pass-by trips.

3. Identify the current approved area type for the location of the proposed land use change (i.e., urban, transitioning, or rural).

4. Identify the closest state road within a one-mile radius from the edge of the property that is likely to be impacted by the proposed future land use map (FLUM) change. Limited access roadways within this radius that cannot be accessed (i.e., no interchanges are close by) can be ignored for this step. If no state roads are within one mile of the edge of the property, skip this step and continue to Step 5.

Based on the area type and the existing plus committed (construction funded within the next three years) number of lanes on this state road, use the following table to determine the project trip threshold for requiring a detailed analysis of the transportation impacts of the proposed amendment. If trips identified in Step 2 exceed either the daily or PHPD thresholds, the analysis of the transportation impacts should be reviewed (following the process identified under "Evaluating the Transportation Impacts"). If the trips identified in Step 1 do not exceed either the daily or PHPD thresholds, or there is no state road within one mile of the subject property, go to Step 5.

State Highway System Roadway Within One Mile Radius of FLUM Amendment

Area Type	Lanes	Requires Analysis if Project Trips Exceed	
		Daily	PHPD
Urban	2	600	50
	4	1,300	110
	6+	2,000	160
Transitioning	2	300	20
	4+	700	60
Rural	2	300	20
	4+	100	10

Note: The basis for these values is provided in Appendix A.

5. Identify the closest state road within a three-mile radius from the edge of the property that is likely to be impacted by the proposed future land use map change. Limited access roadways within this radius that cannot be accessed (i.e., no interchanges are close by) can be ignored for this step. If no state roads are within three miles of the edge of the property, no further review is necessary; otherwise, proceed with this step.

   Based on the area type and the existing plus committed (construction funded within the next three years) number of lanes on this state road, use the following table to determine the project trip threshold for requiring a detailed analysis of the transportation impacts of the proposed amendment. If trips identified in Step 2 exceed either the daily or PHPD thresholds, the analysis of the transportation impacts should be reviewed (following the process identified below in "Evaluating the Transportation Impacts"). If the trips identified in Step 2 do not exceed either the daily or PHPD thresholds, or there is no state road within three miles of the subject property, it is not necessary to review the transportation impact analysis.

State Highway System Roadway Within Three Mile Radius of FLUM Amendment

Area Type	Lanes	Requires Analysis if Project Trips Exceed	
		Daily	PHPD
Urban	2	900	80
	4	2,000	170
	6+	3,100	260
Transitioning	2	400	30
	4+	1,000	80
Rural	2	300	30
	4+	100	10

Note: The basis for these values is provided in Appendix A.

Evaluating the Transportation Impacts

Any local government comprehensive plan amendment (typically a future land use element amendment) related to a proposed DRI must be considered at the same time as the DRI. If the DRI requires a comprehensive plan amendment, the developer is required to notify in writing the regional planning agency no later than the date of the preapplication conference or the submission of a notice of proposed change (if it is an approved DRI). If a DRI is involved in the comprehensive plan amendment, the evaluation of the amendment transportation impacts should be coordinated with the transportation review for the DRI.

The following guidance is provided for evaluating the transportation impacts associated with a proposed FLUM amendment:

- ☐ Type of land use change – A brief description of existing and proposed land use should be provided. The projected development density/intensity for the existing and proposed land uses should be identified, including a distribution of uses for mixed-use districts. The maximum allowable density/intensity should be used for existing and proposed land uses. However, if the applicant agrees (through the adopted text amendment and/or map notation in the comprehensive plan) to limit the proposed development level, that level can be used.

- ☐ Map – A map of the property location and surrounding transportation network should be provided. The map should illustrate all roadways and identify the study area (see "Study Area" below for recommended method for determining study area) with roadway names provided for all roadways referenced in the analysis. State roadways should be clearly identified with the Strategic Intermodal System (SIS), including SIS connectors and emerging SIS; Florida Intrastate Highway System (FIHS); and Transportation Regional Incentive Program (TRIP) funded roadways highlighted.

- ☐ Trip Generation – The trip generation should be calculated for existing future land use intensity and the proposed future land use based on the latest edition of *Trip Generation*, published by the Institute of Transportation Engineers (ITE). Trip generation should be provided for daily and PM peak hour (also for AM peak hour if required by the local government) of the adjacent street traffic. All assumptions relative to the land use density/intensity should be clearly noted.

- ☐ Internal Trip Capture – Multi-use developments may result in internal trips that should be identified using guidance in the latest edition of *Trip Generation Handbook*, published by ITE. Note that separate rates are identified for daily and PM peak hours.

    - Caution! – Internal trip capture rates greater than 20 percent will require convincing evidence that this rate is appropriate. This could include surveys of similar facilities.

    - Caution! – The use of TIPS (FDOT software) can produce unrealistic internal capture if the development is divided into multiple groups of similar land uses (i.e., more than one line is used for residential uses in the development, or more than one line is used for retail uses in the development, or more than one line is used for office uses in the development). In this case, the internal capture rate should be calculated manually using the method described in the ITE *Trip Generation Handbook*.

- ☐ Pass-By Trips – Retail developments typically capture pass-by trips. The number of pass-by trips should be identified using guidance in the latest edition of *Trip Generation Handbook*, published by ITE.

- Caution! – FDOT has established that the pass-by trip total must be reduced if it exceeds 10 percent of the adjacent street traffic volume. The total allowable pass-by trips (inbound plus outbound pass-by trips) should not exceed 10 percent of the total two-way volume of the adjacent street traffic for the period being analyzed.

- Caution! – Pass-by trips should be accounted for in the turning movements analyzed at the project driveways (if the intersection is analyzed as part of an ARTPLAN evaluation).

☐ Transit Trips – Where premium transit service is available, it may be reasonable to reduce the trip generation to account for trips using transit. Any mode split reductions should be supported by evidence that the mode split is reasonable.

☐ Trip Distribution and Assignment – The distribution and assignment of project trips is preferred to be developed using a regionally adopted (FDOT or MPO) travel demand model that represents the year of analysis being performed. The manual distribution and assignment (calculated based on a review of existing and projected travel patterns) is acceptable for developments that generate less than 1,000 new daily trips. If the manual method is used, evidence should be provided to support the distribution used (i.e., traffic counts, land use patterns, etc.).

☐ Study Area – The study area should include all collector and arterial roadways (based on the approved functional classification) where the development's PM peak hour traffic is projected to represent three percent, or more, of the adopted LOS service volume. Any state roads within three miles of the subject property which are at or above 105 percent of the adopted service volume should be checked to confirm the proposed change will not result in the future volume exceeding 110 percent of the adopted service volume. For state roads, the study area should be based on generalized service volumes identified in the FDOT Q/LOS Handbook and 2007 LOS Issue Papers.

☐ Background Traffic – The analysis of future conditions should include additional traffic due to approved developments (within the local government) and additional anticipated developments (approved in adjacent local governments). Approved development traffic should be identified from the local government's concurrency management system, DRI, and other traffic impact studies. In addition, historic traffic volume trends should be identified and considered when developing background traffic volumes. Typically, a minimum growth rate of two percent per year is accepted unless evidence can be provided to support a lower growth rate.

☐ Total Traffic – The total traffic is the existing traffic volume plus the background traffic volume plus the project traffic.

- ☐ Short-Term Analysis (Five-Year) – The short-term analysis should identify projected conditions for both the existing future land use development level and the proposed future land use development level.

    - The transportation network may include improvements with construction programmed within the next three years.

    - The analysis should include daily and peak hour (directional if directional was evaluated in the original data and analysis of the transportation element or is provided in the amendment analysis) periods for roadways in the study area. Peak hour traffic volumes should be developed from AADT volumes using K factors (and D factors if directional analysis is used) that are not less than FDOT minimums described in the 2007 LOS Issue Papers (see FLUM Note 1).

    - LOS analysis should use FDOT standards for all SIS (including SIS Connectors and Emerging SIS), FIHS, and TRIP-funded roadways.

    - Professionally accepted techniques are required for measuring LOS. This includes methods described in the FDOT Q/LOS Handbook and 2007 LOS Issue Papers (see FLUM Note 2). Comment: If ARTPLAN or similar analysis is used to analyze future conditions, the analysis should be based on future turning movements, existing and anticipated signals, and future signal timings at the intersections.

    - Necessary improvements to ensure the transportation system (multimodal if appropriate) within the study area operates at the adopted LOS should be identified. The needed improvements should be consistent with the Transportation Element or the Transportation Element will need to be amended to include the needed improvements.

    - Evidence that these needed improvements are financially feasible should be presented, including proposed updates to the Capital Improvement Element, guarantees in developers' agreements, or execution of proportionate-fair share agreements.

- ☐ Long-Term Analysis (existing comprehensive plan horizon year or at least 10 years) – The long-term analysis should identify projected conditions for both the existing future land use development potential and the proposed future land use development potential.

    - The transportation network should include improvements identified in the current comprehensive plan for the horizon year.

    - The analysis should include daily and peak hour (directional if directional was evaluated in the original data and analysis of the transportation

element or is provided in the amendment analysis) periods for roadways in the study area. Peak hour traffic volumes should be developed from AADT volumes using K factors (and D factors if directional analysis is used) that are not less than FDOT minimums described in the 2007 LOS Issue Papers (see FLUM Note 1).

- LOS analysis should use FDOT standards for all SIS (including SIS Connectors and Emerging SIS), FIHS, and TRIP-funded roadways.

- Professionally accepted techniques are required for measuring LOS. This includes methods described in the FDOT Q/LOS Handbook and 2007 LOS Issue Papers (see FLUM Note 2). Comment: If ARTPLAN or similar analysis is used to analyze future conditions, the analysis should be based on future turning movements, existing and anticipated signals and future signal timings at the intersections. Typically, this level of detail is not available for the long term analysis; therefore, the FDOT generalized service volume tables are appropriate for the long-term analysis.

- Necessary improvements to ensure the transportation system (multimodal if appropriate) operates at the adopted LOS should be identified within the study. The needed improvements should be consistent with the Transportation Element or the Transportation Element will need to be amended to include the needed improvements.

- Evidence that these needed improvements are reasonably financially feasible should be presented. Evidence includes projected revenues from existing sources, as well as new sources that are reasonably available. For new sources, specific steps for ensuring their availability should be identified.

FLUM Notes:

1. If the local government's comprehensive plan states that the LOS is to be determined based on the FDOT Q/LOS Handbook (or a similar statement referencing the FDOT LOS Handbook), then the FDOT minimum K and D factors will apply. However, if the local government's comprehensive plan does not specify the FDOT Q/LOS Handbook (or the FDOT LOS Handbook) as the method for determining LOS, then it is up to the local government to determine acceptable K and D factors and how LOS is to be determined for non-SIS, non-FIHS, and non-TRIP-funded facilities.

2. If the local government's comprehensive plan states that the LOS is to be determined based on the FDOT Q/LOS Handbook (or a similar statement referencing the FDOT LOS Handbook), then the analysis should be based on the latest FDOT Q/LOS Handbook and the 2007 LOS Issue Papers. However, if the local government's comprehensive plan does not specify the FDOT Q/LOS

Handbook (or the FDOT LOS Handbook) as the method for determining LOS, then it is up to the local government to specify the method used for determining LOS (be based on professionally accepted techniques). FDOT analysis requirements apply to all SIS (including SIS Connectors and Emerging SIS), FIHS, and TRIP-funded facilities.

SECTION 3

EVALUATION AND APPRAISAL REPORTS

Overview

The State of Florida regulates local government comprehensive planning through Chapter 163, Part 2 of the Florida Statutes (FS). These laws mandate counties and municipalities to maintain a long-range, comprehensive planning program that should be a 'continuous and ongoing process,' rather than a one-time report. As part of this ongoing process, each local government is required to periodically evaluate its comprehensive plan by researching and writing an evaluation and appraisal report (EAR) every seven years.

The EAR functions as an audit of the successes and shortcomings of the comprehensive plan and provides the opportunity to identify needed amendments. Amendments may include updates to the plan in order to reflect changes in local circumstances and community goals that are reflected in the local government defined "major issues." The amendments may also address changes in state law, depending on the previous amendments to the plan.

At the initiation of a local government's EAR, local governments are encouraged to hold scoping meetings with adjacent local governments and regional agencies, including FDOT. Early involvement in the development of the local government's major issues relative to the EAR and its approach to transportation analysis will provide the local government with FDOT's expectations and ensure consistent methodology is used.

Once the EAR is adopted and found sufficient by the DCA, the local government has 18 months to adopt the EAR-based amendments. These amendments should be reviewed by FDOT using the guidelines described in the other sections. The only exception local governments have for EAR-based amendments is that the amendments are not subject to the two per year limitation.

FDOT Statutory Authority

Florida Statutes (FS)

- ☐ FS 163.3191(6) – The local government shall provide a copy of the adopted EAR to FDOT. DCA is to review the adopted EAR and make a preliminary sufficiency determination within 60 days of receiving the adopted EAR. FDOT should provide comments to DCA 30 days prior to DCA's 60-day deadline regarding the sufficiency of the EAR. Within 90 days, DCA will make a final sufficiency determination.

- ☐ FS 163.3180(10) (copy provided in ***Appendix E***) and 163.3191(1)(p) addresses roadways that traverse multiple jurisdictions and requires local governments to consider compatibility of LOS standards with standards in adjacent jurisdictions.

Also, local governments are encouraged to coordinate with adjacent local governments for the purpose of using common methodologies for measuring transportation impacts in their concurrency management systems.

Florida Administrative Code (FAC)

- ☐ FAC 9J-5 (copy provided in ***Appendix B***) describes the minimum criteria for review of local government comprehensive plans and plan amendments, evaluation and appraisal reports, land development regulations, and determinations of compliance.

- ☐ FAC 9J-11 (copy provided in ***Appendix C***) describes procedures governing the submittal and review of local government comprehensive plans and amendments.

- ☐ FAC Chapter 14-94 (copy provided in ***Appendix D***) establishes the FDOT LOS standards for SIS (including SIS Connectors and Emerging SIS), FIHS, and TRIP-funded facilities.

FDOT Information Needs

The following information should be provided by the local government with the EAR. Note that FDOT has 30 days from receipt of the EAR to submit written comments to DCA. DCA has 60 days from receipt of the report to determine preliminary sufficiency and 90 days from receipt of the report to determine final sufficiency.

- ☐ EARs should include:

    - Extent of vacant and developable land.

    - Financial feasibility of implementing the comprehensive plan, providing needed infrastructure to achieve and maintain adopted LOS standards, and sustain concurrency management systems through the capital improvements element, as well as the ability to address infrastructure backlogs and meet the demands of growth on public service and facilities.

    - Identification of any actions or corrective measures, including whether plan amendments are anticipated to address the major issues identified and analyzed in the report.

    - Extent to which a transportation concurrency exception area (unless there are others), concurrency management area, or a multimodal transportation district has achieved the purpose for which it was created.

    - An assessment of the extent to which changes are needed to develop a common methodology for measuring impacts on transportation facilities for the purpose of implementing its concurrency management system with the municipalities and counties.

Additional information available from FDOT resources relevant to the review of the proposed amendment includes:

- ☐ Latest FDOT Florida traffic information (for most recent traffic counts, historic trends, AADT forecasts) or appropriate relevant data from local sources.

- ☐ Relevant information from the Q/LOS Handbook and 2007 LOS Issue Papers.

- ☐ Copies of previously submitted TCEA and/or MMTD justification reports where existing TCEAs or MMTDs are in place.

FDOT Review Criteria

The following criteria should be considered:

- ☐ Impacts on the state transportation system with emphasis on the SIS
- ☐ Major issues affecting transportation systems
- ☐ Financial feasibility analysis relative to maintaining LOS on roadways
- ☐ Evaluation of concurrency exception areas
- ☐ Assessment of common methodology concurrency determination
- ☐ Proposed amendments to the transportation element
- ☐ Proposed amendments to the future land use element

A description of how these criteria should be considered is provided in the following guidelines.

FDOT Review Guidelines

- ☐ Analysis of impacts on the SIS and the state transportation system – The adopted LOS standard for SIS (including SIS Connectors and Emerging SIS), FIHS, and TRIP-funded facilities should match the FDOT standards (this is a statutory requirement unless a variance has been approved by FDOT). The local government may establish different LOS standards for other state roads.

    - o Confirm that the adopted LOS standard referenced in the EAR are consistent with FDOT standards (see copy of FAC Chapter 14-94 in ***Appendix D***) for all SIS (including SIS Connectors and Emerging SIS), FIHS, and TRIP-funded facilities.

    - o Identify and note (for internal FDOT information) sections of the state highway system where the local government's adopted LOS standard is different from the FDOT standard. Local governments are allowed to set different standards for non-SIS, FIHS, and TRIP-funded facilities. Provide this information to FDOT District Five LOS coordinator.

- ☐ Analysis of major issues affecting transportation systems – The EAR should include a LOS analysis of current conditions on the transportation network, as

well as the future conditions for their comprehensive plan horizon year (i.e., long-term). The local government is required to use professionally accepted techniques for measuring LOS. This includes methods described in the FDOT Q/LOS Handbook and 2007 LOS Issue Papers (see EAR Note 1). Comment: If ARTPLAN or similar analysis is used to develop the existing service volume, all backup data should be maintained (i.e., traffic count information, date of count, signal timing data, etc.). If ARTPLAN is used for future service volumes, it should be based on the analysis of future conditions of the intersections (i.e., future turning movements and future signal timings).

- Confirm that the LOS analysis is based on methods described in the FDOT Q/LOS Handbook and 2007 LOS Issue Papers (see EAR Note 1). These include the use of FDOT's Generalized Tables, ARTPLAN, FREEPLAN, HIGHPLAN, Highway Capacity Manual (HCM), Highway Capacity Software (HCS), Transit Capacity and Quality of Service Manual (TCQSM), Bicycle LOS Model (BLOS), and Pedestrian LOS Model (PLOS). Note that FDOT may consider other analysis tools (e.g., Synchro, CORSIM), but FDOT reviewers are under no obligation to consider, review or comment on such analyses.

- If ARTPLAN is used for determining LOS, variables should be checked for reasonableness and be consistent with guidance provided in the Q/LOS Handbook and 2007 LOS Issue Papers. For example, the percent turns, availability of exclusive turn lanes, and through g/C ratio should be consistent with actual conditions.

☐ Financial feasibility analysis relative to maintaining LOS on roadways – Improvements needed to maintain acceptable operating conditions should be identified in the recommended amendments to the Capital Improvement Element (CIE).

- Confirm that the data and analysis supporting the CIE identifies the existing revenue sources and a reasonable forecast of these revenue sources over the first three years of the CIE. The projected revenues should be sufficient to fully fund any transportation improvements needed to maintain the adopted LOS on roadways through the comprehensive plan horizon year.

- Sufficient funds must also be available to fund improvements scheduled for years four and five; however, these funds can include existing and planned revenue sources.

☐ Evaluation of TCEA (see the "Transportation Concurrency Exception Areas" section in this document) and/or multimodal transportation districts (see the "Multimodal Transportation Districts" section) and the extent to which the purpose has been achieved.

- The evaluation of TCEAs and MMTDs will require comparing the EAR conditions against the purpose and proposed goals, objectives, and policies identified in the original justification report submitted for the approval of the TCEA or MMTD.

- Confirm that the EAR assessment of the purpose of the TCEA or MMTD is reasonable.

- Confirm that supporting goals, objectives, and policies have been implemented.

- Confirm that the CIE includes funding for strategies needed to support the TCEA and/or MMTD.

- TCEAs existing prior to July 1, 2005 are required to meet the new TCEA requirements (see the "Transportation Concurrency Exception Areas" section in this document) as part of their next EAR, which are scheduled as follows:

  - Daytona Beach – June 1, 2009
  - Orlando – August 1, 2009
  - Oviedo – December 1, 2009
  - Sanford – January 1, 2010
  - Ocala – January 1, 2013

☐ Assessment of compatibility of LOS standards with adjacent local governments – Local governments are encouraged to coordinate with adjacent local governments for the purpose of using common methodologies for measuring transportation impacts in their concurrency management systems.

- Check for consistency of LOS standards and methodology for determining LOS with that of adjacent local governments.

- Identify and note any discrepancies on the SHS and identify the extent to which changes are needed to achieve consistency and a common methodology for measuring impacts for concurrency determination.

- Provide recommendations for resolution of discrepancies in LOS standards and methodologies.

☐ Identify any proposed amendments to the transportation element – If the local government identifies any proposed amendments to the transportation element, confirm that they are aware of these FDOT Review Guidelines and if necessary, provide them with a copy of these guidelines.

- ☐ Identify any proposed amendments to the future land use element that may increase densities and intensities – If the local government identifies any proposed amendments to the transportation element, confirm that they are aware of these FDOT Review Guidelines and if necessary, provide them with a copy of these guidelines.

EAR Notes:

1. If the local government's comprehensive plan states that the LOS is to be determined based on the FDOT Q/LOS Handbook (or a similar statement referencing the FDOT LOS Handbook), then the analysis should be based on the latest FDOT Q/LOS Handbook and the 2007 LOS Issue Papers. However, if the local government's comprehensive plan does not specify the FDOT Q/LOS Handbook (or the FDOT LOS Handbook) as the method for determining LOS, then it is up to the local government to specify the method used for determining LOS (based on professionally accepted techniques). FDOT analysis requirements apply to all SIS (including SIS Connectors and Emerging SIS), FIHS, and TRIP-funded facilities.

SECTION 4

CONCURRENCY MANAGEMENT SYSTEMS

Overview

Local governments are required to have a concurrency management system for the purpose of ensuring that public facilities and services needed to support development are available, concurrent with the impacts of such development. FDOT's primary role in transportation concurrency management is to provide technical support to local governments in their assessment of LOS.

FDOT Statutory Authority

Florida Statutes (FS)

- ☐ FS 334.044 establishes that FDOT has the responsibility for coordinating the planning of a safe, viable, and balanced state transportation system serving all regions of the state, and to assure the compatibility of all components, including multimodal facilities.

- ☐ FS 163.3180(1)(b) (copy provided in ***Appendix E***) requires local governments to use professionally accepted techniques for measuring LOS for the purpose of ensuring concurrency. FDOT is to develop multimodal LOS methodologies and provide technical assistance to local governments in applying these methodologies. This requirement was satisfied with the development of the FDOT Q/LOS Handbook.

- ☐ FS 163.3180(10) (copy provided in ***Appendix E***) requires local governments to adopt the FDOT LOS standard for facilities on the SIS (including SIS Connectors and Emerging SIS), FIHS, and roadway facilities funded through TRIP.

- ☐ FS 163.3180(10) (copy provided in ***Appendix E***) and 163.3191(1)(p) addresses roadways that traverse multiple jurisdictions and requires local governments to consider compatibility of LOS standards among adjacent jurisdictions. Also, local governments are encouraged to coordinate with adjacent local governments for the purpose of using common methodologies for measuring transportation impacts in their concurrency management systems.

Florida Administrative Code (FAC)

- ☐ FAC Chapter 14-94 (copy provided in ***Appendix D***) establishes FDOT LOS standards for SIS (including SIS Connectors and Emerging SIS), FIHS, and TRIP-funded facilities.

- ☐ FAC Chapter 9J-5.0055 (copy provided in ***Appendix B***) addresses the requirements for local governments to establish a transportation concurrency management system.

FDOT Information Needs

The following information should be obtained from each local government within District Five.

- ☐ A copy of each local government's CMS ordinance. This ordinance is good to keep on file as it should document how traffic impact studies are to be conducted and any relevant local government requirements.

- ☐ A copy of each local government's goals, objectives, and policies in the comprehensive plan that establish and implement the CMS. These typically identify the adopted LOS standards.

- ☐ A copy of each local government's CMS monitoring procedure and data.

- ☐ A copy of each local government's current capital improvement element.

FDOT Review Criteria

The following criteria should be considered:

- ☐ Methodology to evaluate concurrency for proposed developments.
- ☐ Facilities included in the system, the adopted LOS, and corresponding service volume.
- ☐ Adopted LOS standard for SIS (including SIS Connectors and Emerging SIS), FIHS, and TRIP-funded facilities should match the FDOT standards.
- ☐ Method to track approved development trips.
- ☐ Method to consider programmed improvements.
- ☐ De minimis impacts on hurricane evacuation routes.
- ☐ Method for tracking proportionate fair-share payments and opportunities.
- ☐ Preferred monitoring data to be provided to FDOT.

A description of how these criteria should be considered is provided in the following guidelines.

FDOT Review Guidelines

As previously noted, FDOT's primary role in transportation concurrency management is to provide technical support to local governments in their assessment of LOS. It is advantageous to FDOT and the local governments to have an accurate understanding of the current and near-term operating conditions on the transportation network.

With the potential exception for possible discrepancies on the adopted LOS standard for SIS (including SIS Connectors and Emerging SIS), FIHS, and TRIP-funded facilities, all review comments from FDOT will be technical recommendations to the local government, not objections to their CMS.

- ☐ Methodology to evaluate concurrency – The CMS should include a description of the methodology to evaluate concurrency for proposed developments. See the previous section on Future Land Use Text and Map Amendments (short-range) for an example methodology.
    - Local governments can establish their own methodology for determining the study area.
    - The methodology should use professionally accepted techniques for measuring LOS for the purpose of ensuring concurrency.
- ☐ Identify facilities – The CMS should identify which facilities are included in the system, the adopted LOS, and corresponding service volume.
    - The adopted LOS standard for SIS (including SIS Connectors and Emerging SIS), FIHS, and TRIP-funded facilities should match FDOT standards (this is a statutory requirement unless a variance has been approved by FDOT).
    - If the local government uses ARTPLAN to identify service volumes, all backup data should be maintained (i.e., traffic count information, date of count, signal timing data, etc.). Furthermore, the ARTPLAN service volumes should be reevaluated on a regular basis (e.g., every two years) because a change in traffic characteristics can affect the service volume.
- ☐ Tracking development – CMSs should include a method to track approved development trips.
    - Identify how the local government is tracking trips for approved developments.
    - Identify how these trips are accounted for once the development is open and generating traffic.
- ☐ Consider programmed improvements – The CMS should include a method to consider programmed improvements.
    - Identify how the local government is tracking programmed improvements; this should include improvements programmed by FDOT. Improvements provided in the CMS should be included in the capital improvement element and/or FDOT Work Program.

- Capacity for programmed improvements can be considered in place if it is funded for construction within three years of the local government's approval of a building permit or its functional equivalent that results in traffic generation.

☐ De minimis impacts on evacuation routes – De minimis exceptions can be permitted for developments that impact a facility not more than one percent of the service volume at the adopted LOS. However, no impact will be de minimis if the sum of existing roadway volumes and the projected volumes from approved projects on a transportation facility would exceed 110 percent of the service volume at the adopted LOS of the affected transportation facility; provided however, that an impact of a single-family home on an existing lot will constitute a de minimis impact on all roadways regardless of the level of the deficiency of the roadway. Further, no impact will be de minimis if it would exceed the adopted LOS standard of any affected designated hurricane evacuation routes.

- No de minimis exceptions should be allowed which result in a roadway designated as an evacuation route exceeding its adopted LOS standard. Copies of evacuation routes for each county within District Five are provided in Appendix F).

- If local governments choose to allow exceptions for de minimis exceptions, they are required to report to the Department of Community Affairs, on an annual basis, documentation that they have not exceeded the 110 percent criteria. No de minimis exceptions may be granted on roadways where the 110 percent criterion is exceeded until such time as the percentage is reduced 110 by increasing the service volume (i.e., programming an improvement) or through reductions in the traffic volume.

☐ Proportionate fair-share tracking – CMSs should include a method to track proportionate fair-share payments and opportunities.

- Identify roadways where the local government has begun collecting proportionate fair-share payments.

- Check the local government's proportionate fair-share ordinance for their method for tracking proportionate fair-share payments. The FDOT model ordinance included the following text: "*Proportionate fair-share revenues shall be placed in the appropriate project account for funding of scheduled improvements in the [City/County] CIE, or as otherwise established in the terms of the proportionate fair-share agreement. At the discretion of the local government, 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% local match for funding under the FDOT TRIP." The CMS should identify the amount previously collected for specific improvements.

- ☐ CMS update schedule – The update schedule should be noted and FDOT should request updated CMS data as it becomes available. This information can be used by FDOT for various purposes, including but not limited to:

  - Evaluating improvement priorities;

  - Evaluating other comprehensive planning products; and,

  - Identifying potential proportionate fair-share funds (for sub-DRI developments) to be combined with other proportionate share payments (for DRIs).

- ☐ Preferred monitoring data to be provided to FDOT – The following monitoring data is recommended to be included in each CMS:

  - Road – name of roadway
  - From/To – beginning and endpoint of segment
  - Length – length of segment
  - Designation – note if segment is part of SIS (including SIS Connectors and Emerging SIS), FIHS, or has been improved under TRIP
  - Number of Lanes – number of through lanes and whether the roadway is undivided, divided, or one-way
  - Area Type – urban, rural, or transitioning
  - Signal Spacing – number of signals per mile
  - Existing AADT – most recent annual average daily traffic volume (AADT) or average daily traffic volume (ADT)
  - Day of Count – date the traffic count to develop AADT or ADT was taken
  - Annual Growth Rate – based on historic trends
  - K 100 Factor – Factor used to convert the AADT to the 100th highest hour (use measured factor, but not less than the FDOT minimum for state roadways)
  - D Factor – Factor used to convert the 100th highest hour to a peak direction (use measured factor, but not less than the FDOT minimum for state roadways)
  - Peak Direction – the peak direction of traffic during the PM peak hour
  - PHPD NB/EB – The peak hour peak direction (PHPD) volume in the north or eastbound direction
  - PHPD SB/WB – The PHPD volume in the south or westbound direction
  - Approved Trips – The number of trips from approved but not constructed developments as of the date of the traffic count used to develop existing conditions (expressed in daily, PHPD NB/EB, and PHPD SB/WB columns)

- Total Traffic – The total traffic (existing plus approved trips expressed in daily, PHPD NB/EB, and PHPD SB/WB columns)
- LOS Standard – the adopted LOS standard
- Service Volume – the service volume at the adopted LOS (expressed in daily, PHPD NB/EB, and PHPD SB/WB columns)
- Basis – the basis for the service volume (i.e., Q/LOS Handbook and 2007 LOS Issue Papers or ARTPLAN). Comment: If ARTPLAN or similar analysis is used to develop the service volume, all backup data should be maintained (i.e., traffic count data and date, signal timing data, etc.)
- V/C Ratio – volume to capacity (adopted service volume) ratio (expressed in daily and PHPD NB/EB, or PHPD SB/WB columns)
- Status – identify if the segment is over or under the adopted service volume (typically the PHPD condition is the controlling condition)
- Evacuation Route – indicate if the segment is designated as a hurricane evacuation route
- Programmed Improvement – indicate if a segment is programmed for improvement and the year construction is to begin (specify the type of improvement and the implementing agency responsible for the improvement)
- Planned Improvement – indicate if a segment is planned for improvement within the comprehensive plan or MPO long-range transportation plan (specify the type of improvement and the implementing agency responsible for the improvement)
- LTTCMS – indicate if the segment is part of a Long Term Transportation Concurrency Management System
- PFS – Indicate if the segment is addressed through an existing proportionate-fair share agreement

SECTION 5

PROPORTIONATE FAIR-SHARE AGREEMENTS

Overview

Proportionate fair-share can potentially be used by a local government to determine a developer's fair-share of costs to meet concurrency. It should be noted that proportionate "fair-share" applies to sub-DRIs while proportionate share applies only to DRIs. The developer's fair-share may be combined with public funds to construct improvements to satisfy concurrency. This method does not apply to all situations; however, it does provide an opportunity to use private funds to advance projects that are planned for construction by the public sector. In this manner, transportation funds are leveraged.

If a developer cannot meet the transportation concurrency requirement through projects in the first three years of the local government's CIE or five-year work program, the developer may enter into a proportionate fair-share agreement with the local government and/or FDOT. In such an agreement, the developer agrees to fund all or a portion of a future transportation project to mitigate impacts.

If a roadway that requires concurrency mitigation is on the SIS, FDOT must concur with and be a party to the agreement. For other projects not located on the SIS but on the state highway system (SHS), FDOT may also receive the funds for use towards a future project and, although not required by law, should be involved in the agreement. In other words, the local government negotiates with the developer for dollars to offset the impact of the development on the transportation corridor. Agreements are only to be executed for projects that can provide the required transportation concurrency (and under construction) within the fourth and fifth years of the adopted five-year work program or that will be under construction within 10 years of the execution of the proportionate fair-share agreement if the transportation facility is in a long-term transportation concurrency system (LTTCMS). By signing an agreement, FDOT is not guaranteeing the project will be under construction within 10 years, but is agreeing with the local government that sufficient funding is reasonably anticipated within that timeframe.

FDOT has prepared a guidebook titled "Working with Proportionate Fair-Share" that provides additional detail and information. It can be downloaded from:

http://www.dot.state.fl.us/planning/gm/pfso/default.htm

FDOT Statutory Authority

Florida Statutes (FS)

- ☐ FS 334.044 establishes that FDOT has the responsibility for coordinating the planning of a safe, viable, and balanced state transportation system serving all regions of the state and to assure the compatibility of all components, including multimodal facilities.

- ☐ FS 163.3180(1)(b) (copy provided in ***Appendix E***) requires local governments to use professionally accepted techniques for measuring LOS for the purpose of ensuring concurrency. FDOT is to develop multimodal LOS methodologies and provide technical assistance to local governments in applying these methodologies. This requirement was satisfied with the development of the FDOT Q/LOS Handbook.

- ☐ FS 163.3180(10) (copy provided in ***Appendix E***) requires local governments to adopt FDOT LOS standard for facilities on the SIS (including SIS Connectors and Emerging SIS), FIHS, and roadway facilities funded through TRIP.

- ☐ FS 163.3180(10) (copy provided in ***Appendix E***) and 163.3191(1)(p) addresses roadways that traverse multiple jurisdictions and requires local governments to consider compatibility of LOS standards among adjacent jurisdictions. Also, local governments are encouraged to coordinate with adjacent local governments for the purpose of using common methodologies for measuring transportation impacts in their concurrency management systems.

- ☐ FS 163.3180(16) (copy provided in ***Appendix E***) addresses proportionate fair-share requirements and applications. It specifically states that proportionate fair-share mitigation for SIS facilities requires concurrence of FDOT.

Florida Administrative Code (FAC)

- ☐ FAC Chapter 14-94 (copy provided in ***Appendix D***) establishes FDOT LOS standards for SIS (including SIS Connectors and Emerging SIS), FIHS, and TRIP-funded facilities.

FDOT Information Needs

The following information should be provided by the local government and/or developer:

- ☐ Local government proportionate fair-share ordinance
- ☐ Concurrency analysis that identified the proposed development was initially denied due to the lack of transportation concurrency
- ☐ Description of proposed mitigation sufficient to determine capacity added and likely cost
- ☐ Draft proportionate fair-share agreement

FDOT Review Criteria

The following criteria should be considered:

- ☐ LOS standards
- ☐ Current and projected traffic volumes
- ☐ Current and projected service volumes
- ☐ Appropriate mitigation
- ☐ Appropriate project costs
- ☐ Developers' proportionate fair-share contribution
- ☐ Appropriate proportionate fair-share agreement

A description of how these criteria should be considered is provided in the following guidelines.

FDOT Review Guidelines

FDOT must be consulted on projects that impact the SHS or the SIS. Being involved in the planning discussions early on and negotiating sound proportionate fair-share agreements is probably the single most important concept. FDOT can be part of these agreements either with the developers, the local government, or both. To assist with these efforts, a Model Proportionate Fair-Share Agreement has been developed by FDOT. A copy of the model agreement can be found in the ***Appendix G*** and can also be downloaded at http://www.dot.state.fl.us/planning/gm.

FDOT District staff should be consulted to ensure that supporting data and analysis are provided for the following criteria:

- ☐ LOS standards – The supporting LOS analysis should use FDOT standards for all SIS (including SIS Connectors and Emerging SIS), FIHS, and TRIP-funded roadways. Local governments can establish LOS standards for other roadways.

- ☐ Current and projected traffic volumes – The current and projected traffic volumes should be checked to ensure they represent K100 conditions. The current and projected K and D factors used for determining traffic volumes should not be less than FDOT minimums described in the 2007 LOS Issue Papers.

- ☐ Current and projected service volumes – Professionally accepted techniques are required for determining current and projected service volumes at the adopted LOS. This includes methods described in the FDOT Q/LOS Handbook and 2007 LOS Issue Papers. Comment: If ARTPLAN or similar analysis is used to analyze future conditions, the analysis should be based on future turning movements, existing and anticipated signals, and future signal timings at the intersections.

- ☐ Appropriate mitigation and associated project costs – A comprehensive assessment of the entire transportation system should be considered. For example, if an SHS facility is deficient, then all types of projects that could realistically help with that deficiency may be eligible for proportionate fair-share contributions. Examples of these types of projects would include adding lanes to the deficient facility, alternative parallel corridors, transit projects that add capacity, or intelligent transportation systems (ITS) such as signal coordination, ramp metering, traveler information systems, or electronic toll payment facilities that improve operational efficiencies.

- ☐ Appropriate project costs – Project costs for proportionate fair-share contributions should be determined by reference to FDOT data at the District level or if those data are unattainable, by reference to FDOT statewide cost data that are available from the FDOT Central Office.

- ☐ Developer's proportionate fair-share contribution – The calculation of the developer's proportionate fair-share contribution should be checked for accuracy. The formula taken from the FDOT model ordinance is as follows:

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

        - "The cumulative number of trips from the proposed development expected to reach roadways during peak hours from the complete buildout 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

$$PFS = \Sigma\left[[(\text{Development Trips}_i) / (\text{SV Increase}_i)] \times \text{Cost}_i\right]$$

(Note: In the context of the formula, the term "cumulative" does not include a previously approved stage or phase of a development.)

Where:

- PFS = Proportionate Fair Share
- Development Trips_i = Those trips from the stage or phase of development under review that are assigned to roadway segment "i" and have triggered a deficiency per the concurrency management system;
- SV Increase_i = Service volume increase provided by the eligible improvement to roadway segment "i";
- 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, and physical development costs directly associated with construction at the anticipated cost in the year it will be incurred.

<u>Comment for sub-DRI application</u>: Under the definition of "development trips," only those trips that trigger a concurrency deficiency would be included in the proportionate fair-share calculation.

<u>Comment for DRI application</u>: The proportionate share calculation for DRIs uses a similar calculation; however, the "development trips" are defined as the cumulative number of the trips from the proposed development expected to reach the roadway during the peak hour from the complete buildout of a stage or phase being approved (see FAC 9J-2.045).

The following example presents the proportionate fair-share (sub-DRI) calculation for widening a roadway from two lanes to four lanes:

Development Impacts (Trips) = 151
Available Capacity (Trips) = 100
Service Volume Increase from widening = 1,100
Widening Cost = $2,500,000
PFS = [(151-100)/1100] x $2,500,000 = $115,909

Thus, the applicant's proportionate fair-share contribution is $115,909.

- ☐ Appropriate proportionate fair-share agreement – Each proportionate fair-share agreement will be different depending upon the variables involved. However, at a minimum, each agreement should address or include the following key components:

    - Description of Project and Need – Each proportionate fair-share agreement should have a detailed description of the project toward which subsequent funds will be applied. The transportation improvement itself should be coordinated with future land use through a corridor management or build-out plan. The corridor plan will allow the local government to calculate costs for the transportation improvement and form a basis for distributing those costs to future developers who wish to access the capacity created by the transportation improvement. The corridor plan will also assist the local government in determining financial feasibility for the transportation improvement by estimating funds resulting from future proportionate fair-share development agreements within the corridor. Finally, the corridor plan will act as a framework to balance and allocate trips to the land uses planned along the corridor.

    - Identification of Future Funding Partners – Each proportionate fair-share agreement should specifically obligate the local government to require that subsequent developments within the corridor participate in the funding of the transportation improvement by signing a separate proportionate fair-share agreement. In this manner, FDOT will have some assurance that there will be additional funds available to complete the project as the development is permitted by the local government. The corridor management plan should provide an indication of what level of funds a local government can be expected to provide. This should provide FDOT with a greater level of certainty and confidence in relation to entering into development agreements with local governments.

    - Identification of Each Partner's Commitments – Development agreements that are entered into with FDOT for proportionate fair-share purposes should be seen as a commitment by that local government to plan the corridor in a comprehensive manner. It should be noted that <u>the option to enter into a Development Agreement for a State facility that is not in the FDOT Five-Year Work Program is at the option of FDOT and is not a mandatory action.</u> Each agreement should specifically outline the actions for which each partner is responsible in regards to the planning and construction of the transportation improvement. Time frames associated with specific actions should be included to ensure implementation. Contingent plans or agreements should also be addressed in case unforeseen circumstances occur.

- Responsibility for Fiscal Management – Each agreement should specifically outline which entity is responsible for managing funds resulting from present and future proportionate fair-share agreements within the corridor. At a minimum, an accounting process which delineates fund balances should be available prior to the beginning of the annual planning of the local government's capital improvements budgeting process and the annual development of the FDOT Work Program.

- Policies for Intergovernmental Coordination – Intergovernmental coordination should be addressed, especially in terms of how transportation improvements identified in the agreement will be coordinated with any long-range transportation plan of an applicable MPO. Agreements to support the prioritization of the transportation improvement within the MPO process should be included. A coordination process with other adjacent local governments should be in place as a result of the corridor planning process.

SECTION 6

TRANSPORTATION CONCURRENCY EXCEPTION AREAS

Overview

A transportation concurrency exception area (TCEA) is an urban area delineated by a local government where infill and redevelopment are encouraged and where exceptions to the transportation concurrency requirement are made, providing that alternative modes of transportation, land use mixes, urban design, connectivity, and funding are addressed. The primary purpose of a TCEA is to allow development to occur in urbanized areas where infrastructure already exists, thereby reducing urban sprawl. The TCEA concurrency exceptions apply to all land uses, development, and types of facilities within the TCEA. Local governments must specifically consider the impacts of the exception areas on the SIS (including SIS Connectors and Emerging SIS) and prior to designation, the local government must also consult with FDOT regarding mitigation of impacts to the SIS (including SIS Connectors and Emerging SIS). Existing TCEAs must be updated to meet the new standards by July 1, 2006, or at the time of the EAR based amendments, whichever is later.

TCEAs were created by Florida's Legislature because the legislature determined that under limited circumstances dealing with transportation facilities, countervailing planning and public policy goals may come into conflict with the requirement that adequate public facilities and services be available concurrent with the impacts of development. Often the unintended result of the concurrency requirement for transportation facilities is the discouragement of urban infill development and redevelopment. Therefore, exceptions from the concurrency requirement for transportation facilities may be granted under specific circumstances.

Local governments can designate a geographic area for transportation concurrency exception to encourage urban infill development and redevelopment, providing supporting policies are in the comprehensive plan. In addition, the goals of the TCEA must be consistent with the other goals and policies of the state comprehensive plan, such as promoting the development of public transportation. There must be a clearly identified plan for mobility and FDOT must be consulted in order to ensure that impacts to the SIS (including SIS Connectors and Emerging SIS) are being properly addressed.

The following requirements must be met to designate a TCEA:

- ☐ The TCEA must be compatible with and further the various portions and elements of the local comprehensive plan.

- ☐ The size and boundaries of each TCEA must be supported by data and analysis in the local government's plan supporting documentation. A local government should coordinate with FDOT and the local metropolitan planning organization when designating TCEA boundaries.

- ☐ TCEAs may transcend jurisdictional boundaries, when appropriate, and must be designated in each applicable comprehensive plan consistent with the statutory provisions.

- ☐ Specific policies, objectives, and strategies must be adopted into the plan that addresses land use mix, densities, intensities, mobility strategies, and connections to other regional systems. Also, the plan must identify strategies and projects in the capital improvement element (CIE) that fund the mobility strategies of the TCEA.

To implement a TCEA, a local government must adopt as an amendment to its comprehensive plan, guidelines, and/or policies that support the TCEA. The guidelines may incorporate a wide range of strategies, including timing and staging plans, parking control and pricing policies, transportation demand management programs, transportation system management programs, availability of public transportation, and utilization of creative financing tools for the provision of transportation services and facilities. The local government must adopt into the comprehensive plan and implement strategies to support and fund mobility within the designated exception area, including alternative modes of transportation. The comprehensive plan amendment shall also demonstrate how strategies will support the purpose of the exception and how mobility within the designated exception area will be provided. In addition, the strategies must address urban design; appropriate land use mixes, including intensity and density; and network connectivity plans needed to promote urban infill, redevelopment, or downtown revitalization. The comprehensive plan amendment designating the concurrency exception area is to be accompanied by data and analysis justifying the size of the area. Additionally, the TCEA must demonstrate financial feasibility through inclusion of TCEA mobility strategies in the CIE.

Prior to the designation or update of a TCEA, FDOT must be consulted by the local government to assess the impact that the proposed exception area is expected to have on the adopted LOS standards established for SIS (including SIS Connectors and Emerging SIS) facilities and roadway facilities funded under TRIP. Further, in consultation with FDOT the local government must develop a plan to mitigate any impacts to the SIS (including SIS Connectors and Emerging SIS), including, if appropriate, the development of a long-term concurrency management system, parallel facilities, or multimodal options. The exceptions may be available only within the specific geographic area of the TCEA. TCEAs existing prior to July 1, 2005 must meet the above provisions by July 1, 2006, or at the time of the comprehensive plan update pursuant to the EAR, whichever occurs last. The projected update deadline for existing TCEA's within District Five are:

- Daytona Beach – June 1, 2009
- Orlando – August 1, 2009
- Oviedo – December 1, 2009
- Sanford – January 1, 2010
- Ocala – January 1, 2013

FDOT Statutory Authority

Florida Statutes (FS)

- ☐ FS 163.3184(3) Local Government Transmittal of Proposed Plan or Amendment, Paragraph (a) requires local governments to transmit the complete proposed comprehensive plan or plan amendment to FDOT.

- ☐ FS 163.3184(4) Intergovernmental Review requires FDOT to provide comments to DCA within 30 days of receipt of the complete proposed plan amendment.

- ☐ FS 334.044 establishes that FDOT has the responsibility for coordinating the planning of a safe, viable, and balanced state transportation system serving all regions of the state and to assure the compatibility of all components, including multimodal facilities.

- ☐ FS 163.3180(1)(b) (copy provided in ***Appendix E***) requires local governments to use professionally accepted techniques for measuring LOS for the purpose of ensuring concurrency. FDOT is to develop multimodal LOS methodologies and provide technical assistance to local governments in applying these methodologies. This requirement was satisfied with the development of the FDOT Q/LOS Handbook.

- ☐ FS 163.3180(10) (copy provided in ***Appendix E***) requires local governments to adopt FDOT LOS standard for facilities on the SIS (including SIS Connectors and Emerging SIS), FIHS, and roadway facilities funded through TRIP.

- ☐ FS 163.3180(5)(f) (copy provided in ***Appendix E***) requires local governments to consult with FDOT prior to the designation of a TCEA to assess the impact that the proposed exception area is expected to have on SIS (including SIS Connectors and Emerging SIS) and TRIP-funded facilities and cooperate with FDOT to develop a plan to mitigate any impacts to SIS (including SIS Connectors and Emerging SIS) and TRIP-funded facilities, including, if appropriate, the development of a long-term transportation concurrency management system.

- ☐ FS 163.3180(10) (copy provided in ***Appendix E***) and 163.3191(1)(p) addresses roadways that traverse multiple jurisdictions and requires local governments to consider compatibility of LOS standards with standards in adjacent jurisdictions. Also, local governments are encouraged to coordinate with adjacent local governments for the purpose of using common methodologies for measuring transportation impacts in their concurrency management systems.

Florida Administrative Code (FAC)

- ☐ FAC Chapter 14-94 (copy provided in ***Appendix D***) establishes FDOT LOS standards for SIS (including SIS Connectors and Emerging SIS), FIHS, and TRIP-funded facilities.

- ☐ FAC Chapter 9J-5.0055(6) (copy provided in ***Appendix B***) addresses the requirements for local governments to establish a TCEA.

- ☐ FAC 9J-5 (copy provided in ***Appendix B***) describes the minimum criteria for review of local government comprehensive plans and plan amendments, evaluation and appraisal reports, land development regulations, and determinations of compliance.

- ☐ FAC 9J-11 (copy provided in ***Appendix C***) describes procedures governing the submittal and review of local government comprehensive plans and amendments.

FDOT Information Needs

Early coordination between the FDOT and the local government proposing a TCEA is beneficial to both parties. Thus, if FDOT becomes aware that a local government is planning on proposing a TCEA, FDOT should approach the local government and seek to identify an appropriate methodology for preparing the supporting data and analysis for the TCEA.

The following information should be provided with the proposed amendment. Note that DCA has five days to determine if the material submitted with the comprehensive plan amendment is complete; therefore, it is important for FDOT to notify DCA within this period if the information submitted is not sufficient for evaluating the impacts of the proposed amendment.

- ☐ The TCEA data and analysis support should include:

    - TCEA purpose and boundary justification
    - Comprehensive plan consistency
    - TCEA multimodal transportation system
    - Potential development within TCEA
    - Traffic impact evaluation
    - TCEA comprehensive plan amendments
    - Mobility and related strategies
    - Financial feasibility
    - Maps and figures

        - Location map
        - Proposed TCEA boundary
        - Aerial

- Vacant, developable land by land use
- Study area map
- Transit routes
- Roadways by functional classification

☐ Adopted LOS standards for impacted area.

☐ Copies of travel demand model files used in the analysis (this information can be requested from the applicant separate from the amendment package).

☐ Copies of analysis spreadsheets (this information can be requested from the applicant separate from the amendment package).

FDOT Review Criteria

The following criteria should be considered:

☐ Size of the TCEA
☐ TCEA study area
☐ TCEA impacts to SIS or TRIP-funded facilities
☐ TCEA consistency with the future land use element
☐ TCEA consistency with the transportation element
☐ TCEA consistency with the capital improvement element
☐ Extra jurisdictional impacts

A description of how these criteria should be considered is provided in the following guidelines.

FDOT Review Guidelines

☐ The size of the TCEA should be supported by the required characteristics – Based on FAC 9J-5.0055(6)(a), the designation of a TCEA may include:

- A specific geographic area or areas delineated in the local government comprehensive plan for urban infill development. An area delineated for urban infill development shall meet the following requirements:

  - The area contains not more than 10 percent developable vacant land. The developable vacant land shall not include water bodies and land designated for conservation use, natural reservations, public road rights of way, public recreation sites, or related activities or uses designated in the local government's comprehensive plan as unavailable for development.

  - For areas where residential use is the predominant type of use comprising greater than 60 percent of the developed land, the

average residential density shall be at least five dwelling units per gross residentially developed acre of land use. For areas where nonresidential use is the predominate type of use comprising greater than 60 percent of the developed land, the average nonresidential density shall be at least a floor area ratio of 1.0 per gross nonresidentially developed acre of land use. If neither residential nor nonresidential uses comprise greater than 60 percent of the developed land, then both the existing residential use and nonresidential use shall meet the appropriate density and intensity criteria prescribed above. The term "gross developed acre" shall include all uses associated with the predominant land use, including parking, drainage, open space, landscaping, and other support facilities.

- A specific geographic area or areas delineated in the local government comprehensive plan for urban redevelopment. The plan must show that the urban redevelopment area is within an urban infill area that does not contain more than 40 percent developable vacant land. A designated urban redevelopment area may include a community redevelopment area established pursuant to the Community Redevelopment Act of 1969 when these areas exist within an urban infill area or an existing urban service area as designated in the local comprehensive plan.

- A specific geographic area delineated in the local government comprehensive plan for downtown revitalization within the designated central business district.

☐ The report should include an evaluation of the transportation impacts associated with the TCEA. The following guidance is provided for evaluating the transportation impacts associated with a proposed TCEA.

- Anticipated development within the TCEA – A brief description of existing and proposed land use should be provided. The projected development density/intensity for the future land uses should be identified, including a distribution of uses for mixed-use districts. If no change to the FLUM is proposed with the TCEA, the anticipated development level for the short-term and long-term analyses should be used. If a FLUM amendment is proposed, the maximum allowable density/intensity should be used for future land uses. However, if the applicant agrees (through the adopted text amendment and/or map notation in the comprehensive plan) to limit the proposed development level, that level can be used.

- Map – A map of the TCEA and surrounding transportation system should be provided. The map should illustrate all roadways and identify the study area (see "Study Area" below for recommended method for determining study area) with roadway names provided for all roadways referenced in

the analysis. State roadways should be clearly identified with SIS (including SIS Connectors and Emerging SIS), FIHS, and TRIP-funded roadways highlighted.

- Trip Generation – The trip generation should be calculated for the anticipated future development based on the latest edition of *Trip Generation*, published by the Institute of Transportation Engineers (ITE). Trip generation should be provided for daily and PM peak hour (also for AM peak hour if required by the local government) of the adjacent street traffic. All assumptions relative to the land use density/intensity should be clearly noted.

- Internal Trip Capture – Multi-use developments may result in internal trips that should be identified using guidance in the latest edition of *Trip Generation Handbook*, published by ITE. Note that separate rates are identified for daily and PM peak hours.

    - Caution! – Internal trip capture rates greater than 20 percent will require convincing evidence that this rate can be achieved. This could include surveys of similar facilities.

    - Caution! – The use of TIPS (FDOT software) can produce unrealistic internal capture if the development is divided into multiple groups of similar land uses (i.e., more than one line is used for residential uses in the development, or more than one line is used for retail uses in the development, or more than one line is used for office uses in the development). In this case, the internal capture rate should be calculated manually using the ITE method.

- Pass-By Trips – Retail developments typically capture pass-by trips. The number of pass-by trips should be identified using guidance in the latest edition of *Trip Generation Handbook*, published by ITE.

    - Caution! – FDOT has established that the pass-by trip total must be reduced if it exceeds 10 percent of the adjacent street traffic volume. The total allowable pass-by trips (inbound plus outbound pass-by trips) should not exceed 10 percent of the total two-way volume of the adjacent street traffic for the period being analyzed (see TCEA Note 1).

    - Caution! – If a travel demand model is used for evaluating the impact of the TCEA, the trips accessing the traffic analysis zones (TAZs) should match ITE trip generation calculations without considering a discount for pass-by trips.

- Transit Trips – Where premium transit service is available, it may be reasonable to reduce the trip generation to account for trips using transit. Any mode split reductions should be supported by evidence that the mode split is reasonable.

- Trip Distribution and Assignment – The distribution and assignment of trips from new development in the TCEA is preferred to be developed using a regionally (FDOT or MPO) adopted travel demand model that represents the year of analysis being performed. Separate TAZs should be created to represent the future TCEA development and the trips accessing these TAZs should match (within five percent) the trip generation based on ITE data (these trips can be reduced to account for internal trips but not for pass-by trips).

- Study Area – The study area should include all collector and arterial roadways (based on the approved functional classification) where the daily traffic generated by the new development within the TCEA is projected to represent five percent or more of the adopted LOS service volume. Any state roads within three miles of the subject property that are at or above 105 percent of the adopted service volume should be checked to confirm the proposed change will not result in the future volume exceeding 110 percent of the adopted service volume. For state roads, the study area should be based on generalized service volumes identified in the FDOT Q/LOS Handbook and 2007 LOS Issue Papers. If different development levels are used for the short-term and long-term analysis, the study areas can be based on the corresponding level of development.

- Projected Traffic Volumes – The analysis of future conditions should include the analysis of conditions with and without the additional development projected within the TCEA. In addition, historic traffic volume trends should be identified and considered when developing background traffic volumes. Typically, a minimum growth rate of two percent per year is accepted unless supporting evidence can be provided to support a lower growth rate.

- Short-Term Analysis (Five-Year) – The short-term analysis should identify projected conditions for conditions with and without the additional development anticipated in the TCEA.

    - The transportation network may include improvements with construction programmed within the next three years.

    - The analysis should include daily and peak hour (directional if directional was evaluated in the original data and analysis of the transportation element or is provided in the amendment analysis) periods for roadways in the study area. Peak hour traffic volumes

should be developed from AADT volumes using K factors (and D factors if directional analysis is used) that are not less than FDOT minimums described in the 2007 LOS Issue Papers (see TCEA Note 2).

- LOS analysis should use FDOT standards for all SIS, including SIS Connectors and Emerging SIS), FIHS, and TRIP-funded roadways.

- Professionally accepted techniques are required for measuring LOS. This includes methods described in the FDOT Q/LOS Handbook and 2007 LOS Issue Papers (see TCEA Note 3). Comment: If ARTPLAN or similar analysis is used to analyze future conditions, the analysis should be based on future turning movements, existing and anticipated signals and future signal timings at the intersections.

- Necessary strategies to support mobility within the TCEA and to address the LOS standards for the surrounding study area should be identified. The needed improvements should be consistent with the Transportation Element or the Transportation Element will need to be amended to include the needed improvements.

- Evidence that these strategies and improvements are financially feasible should be presented, including updating the Capital Improvement Element, guarantees in developers agreements, or execution of proportionate-fair share agreements.

- Long-Term Analysis (existing comprehensive plan horizon year or at least 10 years) – The long-term analysis should identify projected conditions for conditions with and without the additional development anticipated in the TCEA.

  - The transportation network should include improvements identified in the current comprehensive plan for the horizon year. These should be consistent with the MPO cost feasible long-range transportation plan.

  - The analysis should include daily and peak hour (directional if directional was evaluated in the original data and analysis of the transportation element or is provided in the amendment analysis) periods for roadways in the study area. Peak hour traffic volumes should be developed from AADT volumes using K factors (and D factors if directional analysis is used) that are not less than FDOT minimums described in the 2007 LOS Issue Papers (see TCEA Note 2).

- LOS analysis should use FDOT standards for all SIS (including SIS Connectors and Emerging SIS), FIHS, and TRIP-funded roadways.

- Professionally accepted techniques are required for measuring LOS. This includes methods described in the FDOT Q/LOS Handbook and 2007 LOS Issue Papers (see TCEA Note 3). Comment: If ARTPLAN or similar analysis is used to analyze future conditions, the analysis should be based on future turning movements, existing and anticipated signals, and future signal timings at the intersections. Typically, this level of detail is not available for the long-term analysis; therefore, FDOT generalized service volume tables are appropriate for the long-term analysis.

- Necessary strategies to support mobility within the TCEA and to address LOS standards for the surrounding study area should be identified. The needed improvements should be consistent with the Transportation Element or the Transportation Element will need to be amended to include the needed improvements.

- Evidence that these strategies and improvements are reasonably financially feasible should be presented. Evidence includes projected revenues from existing sources, as well as new sources that are reasonably available. For new sources, specific steps for ensuring their availability should be identified.

☐ Identify if the TCEA impacts any SIS (including SIS Connectors and Emerging SIS) or TRIP-funded facilities – If the TCEA impacts one of these facilities, the local government is required to consult with FDOT to develop a plan to mitigate the impacts, including, if appropriate, the establishment of a long-term concurrency management system.

☐ The TCEA should be consistent with the future land use element.

- Check the model files used for the analysis of the TCEA as they should be consistent with the future land use map of the comprehensive plan (typically the corresponding MPO datasets).

- Check for supporting objectives and policies such as urban design, land use mixes, and intensities that should be included. Objectives and policies should address:

  - Access management and shared driveways;

  - Building height, placement, and orientation;

- Parking location and related provisions;
- Pedestrian and bicycle access and facilities; and,
- Mixed use requirements.

☐ The TCEA should be consistent with the transportation element.

- Check that all mobility and related strategies identified in the TCEA data and analysis are reflected in the transportation element.
- The data and analysis should address daily and peak hour conditions (FAC 9J-5.019(3)(a)) using techniques described in the FDOT Q/LOS handbook and 2007 LOS Issue Papers (see TCEA Note 3).
- Commitments to implement strategies to provide mobility within the TCEA should be identified (i.e., transit, bicycle, pedestrian, network connectivity).
- Commitments to implement strategies to reduce or manage travel demands should be identified (i.e., transportation demand management, parking strategies, ridesharing services).

☐ The TCEA should be consistent with the capital improvement element.

- Strategies identified to support the TCEA (i.e., transportation and mobility) should be funded in the CIE (even though they may not be capital projects).
- Methods to fund recurring expenses (i.e., transit operating expenses) should be identified.

☐ Extra jurisdictional impacts should be addressed.

- The justification report should accurately reflect the appropriate LOS standards for adjacent local governments and identify any projected deficiencies.

<u>TCEA Notes</u>:

1. While this FDOT requirement provides reasonable guidance; it can only be enforced by FDOT on SIS (including SIS Connectors and Emerging SIS), FIHS, or TRIP-funded facilities.

2. If the local government's comprehensive plan states that the LOS is to be determined based on the FDOT Q/LOS Handbook (or a similar statement referencing the FDOT LOS Handbook), then FDOT minimum K and D factors will apply. However, if the local government's comprehensive plan does not specify the FDOT Q/LOS Handbook (or the FDOT LOS Handbook) as the method for determining LOS, then it is up to the local government to determine acceptable K and D factors and how LOS is to be determined for non-SIS, non-FIHS, and non-TRIP-funded facilities.

3. If the local government's comprehensive plan states that LOS is to be determined based on the FDOT Q/LOS Handbook (or a similar statement referencing the FDOT LOS Handbook), then the analysis should be based on the latest FDOT Q/LOS Handbook and the 2007 LOS Issue Papers. However, if the local government's comprehensive plan does not specify the FDOT Q/LOS Handbook (or the FDOT LOS Handbook) as the method for determining LOS, then it is up to the local government to specify the method used for determining LOS (based on professionally accepted techniques). FDOT analysis requirements apply to all SIS (including SIS Connectors and Emerging SIS), FIHS, and TRIP-funded facilities.

SECTION 7

LONG-TERM TRANSPORTATION CONCURRENCY MANAGEMENT SYSTEMS

Overview

A Long-Term Transportation Concurrency Management System (LTTCMS) is a specially designated district or area designated in the comprehensive plan where significant backlogs exist. The LTTCMS may include interim LOS standards on certain facilities and shall rely on the schedule of capital improvements for a period of up to 10 years (15 years in some cases) as a basis for approving new development. The LTTCMS should identify how the existing backlogged facility will be improved to achieve the adopted LOS. The establishment of a LTTCMS allows development to proceed, thereby generating impact fees and possibly proportionate fair-share payments that are used to improve the roadway.

The following requirements must be met to designate a LTTCMS:

- ☐ The LTTCMS must identify and quantify existing deficiencies that are not programmed for construction (i.e., backlogged).
- ☐ If the LTTCMS is intended to support a transportation concurrency exception area (TCEA), a transportation concurrency management area (TCMA), a multimodal transportation district (MMTD), or a proportionate fair-share agreement, the LTTCMS must quantify future deficiencies that are not programmed for construction.
- ☐ Like any comprehensive plan amendment, the establishment of a LTTCMS should be supported by data and analysis. This should include an analysis of the effects of the LTTCMS.
- ☐ The LTTCMS must identify a financially feasible improvement plan that will bring the deficient facility up to the adopted LOS standard.
- ☐ The LTTCMS may include interim LOS standards.
- ☐ The LTTCMS must be consistent with other portions of the adopted comprehensive plan, including the future land use map.

LTTCMSs are specifically listed in the Florida Statutes as a potential strategy for mitigating impacts to the SIS (including SIS Connectors and Emerging SIS) associated with TCEAs, TCMAs, and MMTDs. In addition, LTTCMSs are a key element of establishing proportionate fair-share agreements for improvements that are outside the current five-year capital improvement element or work program. FDOT should work closely with local governments during the evaluation of TCEAs, TCMAs, and MMTDs

to develop financially feasible plans to mitigate impacts to the SIS (including SIS Connectors and Emerging SIS) and TRIP-funded facilities. FDOT should also work closely with local governments to execute proportionate fair-share agreements for state roadways (see Section 5, Proportionate Fair-Share Agreements).

FDOT Statutory Authority

Florida Statutes (FS)

- ☐ FS 163.3184(3) Local Government Transmittal of Proposed Plan or Amendment, Paragraph (a) requires local governments to transmit the complete proposed comprehensive plan or plan amendment to FDOT.

- ☐ FS 163.3184(4) Intergovernmental Review requires FDOT to provide comments to DCA within 30 days of receipt of the complete proposed plan amendment.

- ☐ FS 334.044 establishes that FDOT has the responsibility for coordinating the planning of a safe, viable, and balanced state transportation system serving all regions of the state and to assure the compatibility of all components, including multimodal facilities.

- ☐ FS 163.3180(1)(b) (copy provided in ***Appendix E***) requires local governments to use professionally accepted techniques for measuring LOS for the purpose of ensuring concurrency. FDOT is to develop multimodal LOS methodologies and provide technical assistance to local governments in applying these methodologies. This requirement was satisfied with the development of the FDOT Q/LOS Handbook.

- ☐ FS 163.3180(10) (copy provided in ***Appendix E***) requires local governments to adopt the FDOT LOS standard for facilities on the SIS (including SIS Connectors and Emerging SIS), FIHS, and roadway facilities funded through TRIP.

- ☐ FS 163.3180(9)(a) (copy provided in ***Appendix E***) describes the requirements for adopting a LTTCMS.

- ☐ FS 163.3180(5)(f) (copy provided in ***Appendix E***) and 163.3180(7), 163.3180(15)(a) requires local governments to consult with FDOT prior to the designation of concurrency strategies (i.e., TCEA, TCMA, MMTD) to assess the impact that the proposed exception area is expected to have on SIS (including SIS Connectors and Emerging SIS) and TRIP-funded facilities and consult/cooperate with FDOT to develop a plan to mitigate any impacts to SIS (including SIS Connectors and Emerging SIS) and TRIP-funded facilities, including, if appropriate, the development of a LTTCMS.

Florida Administrative Code (FAC)

- ☐ FAC Chapter 14-94 (copy provided in ***Appendix D***) establishes the FDOT LOS standards for SIS (including SIS Connectors and Emerging SIS), FIHS, and TRIP-funded facilities.

- ☐ FAC Chapter 9J-5.0055(4) (copy provided in ***Appendix B***) addresses the requirements for local governments to establish a LTTCMS.

- ☐ FAC 9J-5 (copy provided in ***Appendix B***) describes the minimum criteria for review of local government comprehensive plans and plan amendments, evaluation and appraisal reports, land development regulations, and determinations of compliance.

- ☐ FAC 9J-11 (copy provided in ***Appendix C***) describes procedures governing the submittal and review of local government comprehensive plans and amendments.

FDOT Information Needs

Early coordination between FDOT and the local government proposing a LTTCMS is beneficial to both parties. Thus, if FDOT becomes aware that a local government is planning on proposing a LTTCMS, FDOT should approach the local government and seek to identify an appropriate methodology for preparing the supporting data and analysis for the LTTCMS.

The following information should be provided with the proposed amendment. Note that DCA has five days to determine if the material submitted with the comprehensive plan amendment is complete; therefore, it is important for FDOT to notify DCA within this period if the information submitted is not sufficient for evaluating the impacts of the proposed amendment.

- ☐ LTTCMS justification report that includes:

    - LTTCMS purpose and boundary justification
    - Extent of backlog, including when it first occurred
    - Date transportation impact fee was implemented, if applicable
    - Interim LOS standards
    - LTTCMS study area and justification
    - Study area multimodal transportation system
    - Potential development within study area
    - Traffic impact evaluation within study area
    - LTTCMS comprehensive plan amendments
    - Financial feasibility
    - Implementation and monitoring steps
    - Maps and figures

- Location map
- Proposed LTTCMS boundary
- Study area map
- Aerial
- Transit routes
- Roadways by functional classification

☐ Adopted LOS standards for study area (including adjacent jurisdictions, if applicable).

☐ Copies of travel demand model files used in the analysis, if applicable (this information can be requested from the applicant separate from the amendment package).

☐ Copies of analysis spreadsheets used in the justification for the LTTCMS (this information can be requested from the applicant separate from the amendment package).

FDOT Review Criteria

The following criteria should be considered:

☐ Existing backlog identified and quantified
☐ LTTCMS district or area size
☐ LTTCMS study area
☐ LTTCMS transportation impacts
☐ LTTCMS consistent with the future land use element
☐ LTTCMS consistent with the transportation element
☐ LTTCMS consistent with the capital improvement element
☐ Extra jurisdictional impacts
☐ Implementation and monitoring steps
☐ LTTCMS for a 15-year period (if applicable)

A description of how these criteria should be considered is provided in the following guidelines.

FDOT Review Guidelines

☐ The existing backlog should be identified and quantified.

- Supporting data and analysis should be provided to demonstrate the location and extent of the backlog. This should include maps and tables to identify the limits of the backlogged facility, other roadways in the vicinity of the backlog (i.e., study area), functional classifications, number of lanes, signalization, planned improvements, programmed improvements, and description and cost of the needed improvement.

- The date when the backlog originally occurred should be identified and compared to the date the local government began collecting transportation impact fees. This is important because impact fees are not to be used to address existing deficiencies. However, if the backlog did not occur until after the local government began collecting impact fees, impact fees should be a reasonable source of funds for improving the roadway.

☐ The LTTCMS district or area size should be appropriate.

- The LTTCMS should identify a district or area that can reasonably be expected to impact the backlogged facility (see study area below). Development within the district or area may help fund the improvement of the backlogged facility through impact fees and proportionate fair-share payments.

- Alternately, the LTTCMS can identify a specific backlogged facility to be addressed.

☐ The LTTCMS study area should be reasonable.

- The study area should be of sufficient size to evaluate the impacts of anticipated development allowed due to the LTTCMS. The intent is to include an area large enough to determine that additional development allowed due to the LTTCMS does not generate new deficiencies that cannot be mitigated based on anticipated funds (i.e., are financially feasible).

- The study area will depend on the surrounding roadway network and the availability of capacity on alternative routes. Larger study areas will be necessary if alternative routes with available capacity are not available.

☐ The following guidance is provided for evaluating the transportation impacts associated with a proposed LTTCMS.

- Map – A map of the LTTCMS and surrounding transportation system should be provided. The map should illustrate all roadways and identify the study area (see study area discussion above for a recommended method for determining study area) with roadway names provided for all roadways referenced in the analysis. State roadways should be clearly identified with SIS (including SIS Connectors and Emerging SIS), FIHS, and TRIP-funded roadways highlighted.

- Projected Traffic Volumes – The future traffic volumes should be developed using a regionally (FDOT or MPO) adopted travel demand model that represents the year of analysis being performed (i.e., five years

out, 10 years out, or 15 years out). In addition, historic traffic volume trends should be identified and considered when developing future traffic volumes. Typically, a minimum growth rate of two percent per year is accepted unless supporting evidence can be provided to support a lower growth rate.

- Short-Term Analysis (Five-Year) – The short-term analysis should identify projected conditions within the study area.

  - The transportation network may include improvements with construction programmed within the next three years.

  - The analysis should include daily and peak hour (directional if directional was evaluated in the original data and analysis of the transportation element, or is provided in the amendment analysis) periods for roadways in the study area. Peak hour traffic volumes should be developed from AADT volumes using K factors (and D factors if directional analysis is used) that are not less than FDOT minimums described in the 2007 LOS Issue Papers (see LTTCMS Note 1).

  - LOS analysis should use FDOT standards for all SIS (including SIS Connectors and Emerging SIS), FIHS, and TRIP-funded roadways.

  - Professionally accepted techniques are required for measuring LOS. This includes methods described in the FDOT Q/LOS Handbook and 2007 LOS Issue Papers (see LTTCMS Note 2). <u>Comment</u>: If ARTPLAN or similar analysis is used to analyze future conditions, the analysis should be based on future turning movements, existing and anticipated signals, and future signal timings at the intersections.

- Long-Term Analysis (existing comprehensive plan horizon year or at least 10 years) – The long-term analysis should identify projected conditions within the study area.

  - The transportation network should include improvements identified in the current comprehensive plan for the horizon year. These should be consistent with the MPO cost feasible long-range transportation plan.

  - The analysis should include daily and peak hour (directional if directional was evaluated in the original data and analysis of the transportation element, or is provided in the amendment analysis) periods for roadways in the study area. Peak hour traffic volumes

should be developed from AADT volumes using K factors (and D factors if directional analysis is used) that are not less than FDOT minimums described in the 2007 LOS Issue Papers (see LTTCMS Note 1).

- LOS analysis should use FDOT standards for all SIS (including SIS Connectors and Emerging SIS), FIHS, and TRIP-funded roadways.

- Professionally accepted techniques are required for measuring LOS. This includes methods described in the FDOT Q/LOS Handbook and 2007 LOS Issue Papers (see LTTCMS Note 2). Comment: If ARTPLAN or similar analysis is used to analyze future conditions, the analysis should be based on future turning movements, existing and anticipated signals, and future signal timings at the intersections. Typically, this level of detail is not available for the long-term analysis; therefore, FDOT generalized service volume tables are appropriate for the long-term analysis.

- Necessary improvements to ensure the transportation system within the study area operates at the adopted LOS should be identified. The needed improvements should be consistent with the Transportation Element or the Transportation Element will need to be amended to include the needed improvements.

- Evidence that these improvements are reasonably financially feasible should be presented. Evidence includes projected revenues from existing sources, as well as new sources that are reasonably available. For new sources, specific steps for ensuring their availability should be identified.

☐ The LTTCMS should be consistent with the future land use element.

- The model files used for the analysis of the LTTCMS should be consistent with the future land use map of the comprehensive plan. The analysis year of the LTTCMS justification report (i.e., 2015) should be consistent with data for that year (i.e., 2015) in the land use element.

- The backlogged districts or areas must be delineated on an adopted comprehensive plan map and must be consistent with other elements of the comprehensive plan, including the future land use map.

- ☐ The LTTCMS should be consistent with the transportation element.
    - All improvements identified in the LTTCMS justification report should be reflected in the transportation element, including the type of improvement and the schedule for implementing the improvement.
    - The data and analysis should address daily and peak hour conditions using techniques described in the FDOT Q/LOS handbook and 2007 LOS Issue Papers (see LTTCMS Note 2).
    - If applicable, any interim LOS standards should be identified. A local government may adopt policies in its comprehensive plan to establish interim LOS standards on certain facilities in long-term concurrency areas for the purpose of the issuance of development orders and permits in these districts.
    - The LTTCMS should address the priorities for improvements and be consistent with other needs identified in the transportation element.
- ☐ The LTTCMS should be consistent with the capital improvement element.
    - Funding for implementing improvements to achieve LOS standards should be identified for a period up to 10 years (15 years in some cases – see "LTTCMS for a 15-year period" below). While the funding is not required to be identified in the CIE, it should be identified in a long-term schedule of capital improvements. In addition, the funding strategy to construct the LTTCMS improvement(s) should be consistent with the process used to develop the CIE.
    - A long-term schedule of capital improvements should be identified. It must include the transportation facilities required to correct existing deficiencies, as well as to accommodate new development. The schedule shall provide a realistic, financially feasible funding system based on currently available revenue sources that must be adequate to fund the scheduled improvements. The schedule must also include the estimated date of commencement of actual construction and the estimated date of project completion.
    - The LTTCMS amendment should include a policy in the comprehensive plan that a plan amendment shall be required to eliminate, defer, or delay construction of any road or public transit facility or service that is needed to maintain the adopted LOS standard and is listed in the long-term schedule of capital improvements.

- ☐ Extra jurisdictional impacts should be addressed.
    - If the study area extends into any adjacent local governments, the justification report should accurately reflect the appropriate LOS standards for the adjacent local governments and identify any projected deficiencies.
- ☐ Implementation and monitoring steps should be identified.
    - The local government may establish a schedule for achieving specified improvements in the interim LOS standards for intervals of time in the future.
    - The plan should set forth specific actions and programs, including a monitoring program for achieving the scheduled improvements in the interim levels of service. This monitoring program should require that in the event that the identified actions and programs are not attained as scheduled, the local government comprehensive plan should be amended to specify the default LOS standards that will be used and be binding for the purpose of issuance of development orders and permits.
    - The local government must evaluate the long-term concurrency management system periodically. At a minimum, the local government must assess its progress toward improving levels of service within the long-term concurrency management district or area in the evaluation and appraisal report and determine any changes that are necessary to accelerate progress in meeting acceptable levels of service.
- ☐ LTTCMS for a 15-year period.
    - Local governments with a severe backlog of transportation facilities may request DCA's approval for a planning period of up to 15 years for establishing a LTTCMS that meets the same requirements of a typical LTTCMS.
    - For a special 15-year LTTCMS amendment, FDOT will use the same procedures and information as for a normal LTTCMS; however, the period of analysis will be adjusted accordingly.
    - A local government seeking such an approval must demonstrate that its transportation backlog for existing development cannot be adequately addressed with a 10-year plan. In considering such a request, DCA's analysis shall include a comparison of the circumstances of the requesting local government with the general situation facing similarly situated jurisdictions, using the following criteria:

1. The extent of the backlog.
2. Whether the backlog is on local or state roads.
3. The cost of eliminating the backlog.
4. The local government's tax and other revenue raising efforts.

The District should assist DCA in evaluating the circumstances where a 15-year LTTCMS is appropriate.

LTTCMS Notes:

1. If the local government's comprehensive plan states that the LOS is to be determined based on the FDOT Q/LOS Handbook (or a similar statement referencing the FDOT LOS Handbook), then the FDOT minimum K and D factors will apply. However, if the local government's comprehensive plan does not specify the FDOT Q/LOS Handbook (or the FDOT LOS Handbook) as the method for determining LOS, then it is up to the local government to determine acceptable K and D factors and how LOS is to be determined for non-SIS, non-FIHS, and non-TRIP-funded facilities.

2. If the local government's comprehensive plan states that the LOS is to be determined based on the FDOT Q/LOS Handbook (or a similar statement referencing the FDOT LOS Handbook), then the analysis should be based on the latest FDOT Q/LOS Handbook and the 2007 LOS Issue Papers. However, if the local government's comprehensive plan does not specify the FDOT Q/LOS Handbook (or the FDOT LOS Handbook) as the method for determining LOS, then it is up to the local government to specify the method used for determining LOS (based on professionally accepted techniques). FDOT analysis requirements apply to all SIS (including SIS Connectors and Emerging SIS), FIHS, and TRIP-funded facilities.

SECTION 8

MULTIMODAL TRANSPORTATION DISTRICTS

Overview

A Multimodal Transportation District (MMTD) is an urban area delineated by a local government in their comprehensive plan where the local government assigns secondary priority to vehicle mobility and primary priority to assuring a safe, comfortable, and attractive pedestrian environment with convenient interconnection to transit. For these areas, local governments may establish multimodal LOS standards that rely primarily on non-vehicular modes of transportation within the district to address concurrency.

Local governments may issue development permits within an MMTD in reliance upon all planned community design capital improvements that are financially feasible over the development or redevelopment timeframe for the district, without regard to the period of time between development or redevelopment and the scheduled construction of the capital improvements.

Local governments must specifically consider the impacts of the MMTDs on the SIS (including SIS Connectors and Emerging SIS) and facilities improved under TRIP and prior to designation, the local government must also consult with FDOT regarding mitigation of impacts to the SIS (including SIS Connectors and Emerging SIS).

The following requirements must be met to designate a MMTD:

- ☐ The MMTD must incorporate community design features that will reduce the number of automobile trips or vehicle miles of travel and will support an integrated, multimodal transportation system.

- ☐ The MMTD should identify multimodal LOS standards for determining concurrency.

- ☐ Specific community design capital improvements must be demonstrated as financially feasible based on currently available funding or funding sources that could reasonably be expected to become available over the period of the plan. The financially feasibility should be reflected in the CIE.

To implement a MMTD, a local government must adopt as an amendment to its comprehensive plan, guidelines and/or policies that support the MMTD. The plan amendment shall also demonstrate how community design features will reduce the number of automobile trips or vehicle miles of travel and will support an integrated, multimodal transportation system. Additionally, the MMTD must demonstrate financial feasibility through inclusion of capital improvements required to promote community design in the CIE.

Prior to the designation or update of a MMTD, FDOT must be consulted by the local government to assess the impact that the proposed MMTD is expected to have on the adopted LOS standards established for SIS (including SIS Connectors and Emerging SIS) facilities and roadway facilities funded under TRIP. Further, the local government must, in cooperation with FDOT, develop a plan to mitigate any impacts to the SIS (including SIS Connectors and Emerging SIS), including, if appropriate, the development of a long-term concurrency management system. MMTDs existing prior to July 1, 2005 must meet the above provisions by July 1, 2006, or at the time of the comprehensive plan update pursuant to the EAR, whichever occurs last. No MMTDs were existing in District Five prior to July 1, 2005.

FDOT Statutory Authority

Florida Statutes (FS)

- ☐ FS 163.3184(3) Local Government Transmittal of Proposed Plan or Amendment, Paragraph (a) requires local governments to transmit the complete proposed comprehensive plan or plan amendment to FDOT.

- ☐ FS 163.3184(4) Intergovernmental Review requires FDOT to provide comments to DCA within 30 days of receipt of the complete proposed plan amendment.

- ☐ FS 334.044 establishes that FDOT has the responsibility for coordinating the planning of a safe, viable, and balanced state transportation system serving all regions of the state, and to assure the compatibility of all components, including multimodal facilities.

- ☐ FS 163.3180(1)(b) (copy provided in ***Appendix E***) requires local governments to use professionally accepted techniques for measuring LOS for the purpose of ensuring concurrency. FDOT is to develop multimodal LOS methodologies and provide technical assistance to local governments in applying these methodologies. The FDOT 2002 Q/LOS Handbook was developed in response to this requirement.

- ☐ FS 163.3180(10) (copy provided in ***Appendix E***) requires local governments to adopt the FDOT LOS standard for facilities on the SIS (including SIS Connectors and Emerging SIS), FIHS, and roadway facilities funded through TRIP.

- ☐ FS 163.3180(15)(a) (copy provided in ***Appendix E***) describes the requirements for adopting a LTTCMS and requires local governments to consult with FDOT prior to the designation of a MMTD; to assess the impact that the proposed exception area is expected to have on SIS (including SIS Connectors and Emerging SIS) and TRIP-funded facilities; and cooperate with FDOT to develop a plan to mitigate any impacts to SIS (including SIS Connectors and Emerging SIS) and TRIP-funded facilities, including, if appropriate, the development of a LTTCMS.

Florida Administrative Code (FAC)

- ☐ FAC Chapter 14-94 (copy provided in ***Appendix D***) establishes the FDOT LOS standards for SIS (including SIS Connectors and Emerging SIS), FIHS, and TRIP-funded facilities.

- ☐ FAC Chapter 9J-5.0055(2)(b) (copy provided in ***Appendix B***) addresses local government's option to adopt multimodal LOS standards using the FDOT method for multimodal LOS standards (i.e., FDOT Q/LOS Handbook and 2007 LOS Issue Papers) or other professionally accepted methodologies.

- ☐ FAC Chapter 9J-5.0055(3)(c)7 (copy provided in ***Appendix B***) allows for a development order or permit to be issued within a designated MMTD provided the supporting strategies are included in a financially feasible long-range schedule of improvements.

- ☐ FAC 9J-5 (copy provided in ***Appendix B***) describes the minimum criteria for review of local government comprehensive plans and plan amendments, evaluation and appraisal reports, land development regulations, and determinations of compliance.

- ☐ FAC 9J-11 (copy provided in ***Appendix C***) describes procedures governing the submittal and review of local government comprehensive plans and amendments.

FDOT Information Needs

Early coordination between FDOT and local government proposing a MMTD is beneficial to both parties. Thus, if FDOT becomes aware that a local government is planning on proposing a MMTD, FDOT should approach the local government and seek to identify an appropriate methodology for preparing the supporting data and analysis for the MMTD.

The following information should be provided with the proposed amendment. Note that DCA has five days to determine if the material submitted with the comprehensive plan amendment is complete; therefore, it is important for FDOT to notify DCA within this period if the information submitted is not sufficient for evaluating the impacts of the proposed amendment.

- ☐ The MMTD amendment and supporting data and analysis should include:

    - MMTD purpose and boundary justification
    - Comprehensive plan consistency
    - MMTD multimodal transportation system
    - Multimodal LOS standards or performance measures
    - Proposed community design features
    - Potential development within MMTD

- Traffic impact evaluation
- Community design elements
- MMTD comprehensive plan amendments
- Financial feasibility
- Maps and figures
    - Location map
    - Proposed MMTD boundary
    - Aerial
    - Study area map
    - Transit routes
    - Roadways by functional classification

☐ Adopted LOS standards for impacted area.

☐ Copies of travel demand model files used in the analysis (this information can be requested from the applicant separate from the amendment package).

☐ Copies of analysis spreadsheets (this information can be requested from the applicant separate from the amendment package).

Additional information relevant to the review of the proposed amendment that is available from FDOT resources (available on FDOT website) includes:

☐ Multimodal Transportation Districts and Area wide Quality of Service Handbook (November 2003).

☐ Modal Regulations and Plan Amendments for Multimodal Transportation Districts – Final Report, University of South Florida.

FDOT Review Criteria

The following criteria should be considered:

☐ Size of the MMTD
☐ MMTD study area
☐ MMTD transportation impacts
☐ MMTD impacts to SIS or TRIP-funded facilities
☐ MMTD consistency with the future land use element
☐ MMTD consistency with the transportation element
☐ MMTD consistency with the capital improvement element
☐ Extra jurisdictional impacts

A description of how these criteria should be considered is provided in the following guidelines.

FDOT Review Guidelines

- ☐ The MMTD area should be appropriate – In a MMTD, vehicle mobility is a secondary priority and primary priority is given to assuring a safe, comfortable, and attractive pedestrian environment with convenient interconnection to transit. Therefore, the vast majority of roadways within the MMTD should be functionally classified as below principal arterials.

  If the MMTD includes principal arterials, special attention should be placed on the effect of the reduction in priority for vehicular mobility.

- ☐ The following guidance is provided for evaluating the transportation impacts associated with a proposed MMTD.

  - Anticipated development within the MMTD – A brief description of existing and proposed land use should be provided. The projected development density/intensity for the future land uses should be identified, including a distribution of uses for mixed-use districts. If no change to the FLUM is proposed with the MMTD, the anticipated development level for the short-term and long-term analyses should be used. If a FLUM amendment is proposed, the maximum allowable density/intensity should be used for future land uses. However, if the applicant agrees (through the adopted text amendment and/or map notation in the comprehensive plan) to limit the proposed development level, that level can be used.

  - Map – A map of the MMTD and surrounding transportation system should be provided. The map should illustrate all roadways and identify the study area (see "Study Area" below for recommended method for determining study area) with roadway names provided for all roadways referenced in the analysis. State roadways should be clearly identified with SIS (including SIS Connectors and Emerging SIS), FIHS, and TRIP-funded roadways highlighted.

  - Trip Generation – The trip generation should be calculated for the anticipated future development based on the latest edition of *Trip Generation*, published by the Institute of Transportation Engineers (ITE). Trip generation should be provided for daily and PM peak hour (also for AM peak hour if required by the local government) of the adjacent street traffic. All assumptions relative to the land use density/intensity should be clearly noted.

  - Internal Trip Capture – Multi-use developments may result in internal trips that should be identified using guidance in the latest edition of *Trip*

Generation Handbook, published by ITE. Note that separate rates are identified for daily and PM peak hours.

- Caution! – Internal trip capture rates greater than 20 percent will require convincing evidence that this rate is appropriate. This could include surveys of similar facilities.

- Caution! – The use of TIPS (FDOT software) can produce unrealistic internal capture if the development is divided into multiple groups of similar land uses (i.e., more than one line is used for residential uses in the development, or more than one line is used for retail uses in the development, or more than one line is used for office uses in the development). In this case, the internal capture rate should be calculated manually using the ITE method.

- Pass-By Trips – Retail developments typically capture pass-by trips. The number of pass-by trips should be identified using guidance in the latest edition of *Trip Generation Handbook*, published by ITE.

  - Caution! – FDOT has established that the pass-by trip total must be reduced if it exceeds 10 percent of the adjacent street traffic volume. The total allowable pass-by trips (inbound plus outbound pass-by trips) should not exceed 10 percent of the total two-way volume of the adjacent street traffic for the period being analyzed (see MMTD Note 1).

  - Caution! – If a travel demand model is used for evaluating the impact of the MMTD, the trips accessing the traffic analysis zones (TAZs) should match ITE trip generation calculations without considering a discount for pass-by trips.

- Transit Trips – Where premium transit service is available, it may be reasonable to reduce the trip generation to account for trips using transit. Any mode split reductions should be supported by evidence that the mode split is reasonable.

- Trip Distribution and Assignment – The distribution and assignment of trips from new development in the MMTD is preferred to be developed using a regionally (FDOT or MPO) adopted travel demand model that represents the year of analysis being performed. Separate TAZs should be created to represent the future MMTD development and the trips accessing these TAZs should match (within five percent) the trip generation based on ITE data (these trips can be reduced to account for internal trips but not for pass-by trips).

- Study Area – The study area should include all collector and arterial roadways (based on the approved functional classification) where the daily traffic generated by the new development within the MMTD is projected to represent five percent or more of the adopted LOS service volume. Any state roads within three miles of the subject property that are at or above 105 percent of the adopted service volume should be checked to confirm the proposed change will not result in the future volume exceeding 110 percent of the adopted service volume. For state roads, the study area should be based on generalized service volumes identified in the FDOT Q/LOS Handbook and 2007 LOS Issue Papers. If different development levels are used for the short-term and long-term analysis, the study areas can be based on the corresponding level of development.

- Projected Traffic Volumes – The analysis of future conditions should include the analysis of conditions with and without the additional development projected within the MMTD. In addition, historic traffic volume trends should be identified and considered when developing background traffic volumes. Typically, a minimum growth rate of two percent per year is accepted unless supporting evidence can be provided to support a lower growth rate.

- Short-Term Analysis (Five-Year) – The short-term analysis should identify projected conditions for conditions with and without the additional development anticipated in the MMTD.

    - The transportation network may include improvements with construction programmed within the next three years.

    - The analysis should include daily and peak hour (directional if directional was evaluated in the original data and analysis of the transportation element, or is provided in the amendment analysis) periods for roadways in the study area. Peak hour traffic volumes should be developed from annual average daily traffic (AADT) volumes using K factors (and D factors if directional analysis is used) that are not less than FDOT minimums described in the 2007 LOS Issue Papers (see MMTD Note 2).

    - LOS analysis should use FDOT standards for all SIS (including SIS Connectors and Emerging SIS), FIHS, and TRIP-funded roadways.

    - Professionally accepted techniques are required for measuring LOS. This includes methods described in the FDOT Q/LOS Handbook and 2007 LOS Issue Papers (see MMTD Note 3). <u>Comment</u>: If ARTPLAN or similar analysis is used to analyze future conditions, the analysis should be based on future turning

movements, existing and anticipated signals, and future signal timings at the intersections.

- Necessary strategies to support mobility within the MMTD and address LOS standards for the surrounding study area should be identified. The needed improvements should be consistent with the Transportation Element or the Transportation Element will need to be amended to include the needed improvements.

- Evidence that these strategies and improvements are financially feasible should be presented, including updating the Capital Improvement Element, guarantees in developers' agreements, or execution of proportionate fair-share agreements.

- Long-Term Analysis (existing comprehensive plan horizon year or at least 10 years) – The long-term analysis should identify projected conditions for conditions with and without the additional development anticipated in the MMTD.

  - The transportation network should include improvements identified in the current comprehensive plan for the horizon year. These should be consistent with the MPO cost feasible long-range transportation plan.

  - The analysis should include daily and peak hour (directional if directional was evaluated in the original data and analysis of the transportation element, or is provided in the amendment analysis) periods for roadways in the study area. Peak hour traffic volumes should be developed from annual average daily traffic (AADT) volumes using K factors (and D factors if directional analysis is used) that are not less than FDOT minimums described in the 2007 LOS Issue Papers (see MMTD Note 2).

  - LOS analysis should use FDOT standards for all SIS (including SIS Connectors and Emerging SIS), FIHS, and TRIP-funded roadways.

  - Professionally accepted techniques are required for measuring LOS. This includes methods described in the FDOT Q/LOS Handbook and 2007 LOS Issue Papers (see MMTD Note 3). <u>Comment</u>: If ARTPLAN or similar analysis is used to analyze future conditions, the analysis should be based on future turning movements, existing and anticipated signals, and future signal timings at the intersections. Typically, this level of detail is not available for the long-term analysis; therefore, FDOT generalized service volume tables are appropriate for the long-term analysis.

- Necessary strategies to support mobility within the MMTD and address LOS standards for the surrounding study area should be identified. The needed improvements should be consistent with the Transportation Element or the Transportation Element will need to be amended to include the needed improvements.

- Evidence that these strategies and improvements are reasonably financially feasible should be presented. Evidence includes projected revenues from existing sources, as well as new sources that are reasonably available. For new sources, specific steps for ensuring their availability should be identified.

☐ Identify if the MMTD impact any SIS (including SIS Connectors and Emerging SIS) or TRIP-funded facilities – If the MMTD impacts one of these facilities, the local government is required to work with FDOT to develop a plan to mitigate the impacts, including, but not limited to, the establishment of a long-term concurrency management system.

☐ The MMTD should be consistent with the future land use element.

- The MMTD area should be delineated on the future land use map.

- The MMTD must incorporate community design features that will reduce the number of automobile trips or vehicle miles of travel and will support an integrated, multimodal transportation system. Community design elements of such a district include:

  - A complementary mix and range of land uses, including educational, recreational, and cultural uses;
  - Interconnected networks of streets designed to encourage walking and bicycling, with traffic-calming where desirable;
  - Appropriate densities and intensities of use within walking distance of transit stops;
  - Daily activities within walking distance of residences, allowing independence to persons who do not drive;
  - Public uses, streets, and squares that are safe, comfortable, and attractive for the pedestrian, with adjoining buildings open to the street and parking not interfering with pedestrian, transit, automobile, and truck travel modes.

- Check the model files used for the analysis of the MMTD as they should be consistent with the future land use map of the comprehensive plan (typically the corresponding MPO datasets).

- Check for supporting objectives and policies such as urban design, land use mixes, and intensities that should be included. Objectives and policies should address:
  - Access management and shared driveways;
  - Building height, placement, and orientation;
  - Parking location and related provisions;
  - Pedestrian and bicycle access and facilities; and,
  - Mixed use requirements.

☐ The MMTD should be consistent with the transportation element.

- Multimodal LOS standards and evaluations should be checked for consistency with the FDOT Q/LOS Handbook and 2007 LOS Issue Papers or other professionally accepted multimodal LOS methodologies (see MMTD Note 3).
- The projected effectiveness of proposed community design features to reduce the number of automobile trips or vehicle miles of travel and to support an integrated, multimodal transportation system should be quantified.
  - The analysis must demonstrate that the community design features within the district provide convenient interconnection for a multimodal transportation system.
  - The analysis must demonstrate that the existing and planned community design will provide an adequate level of mobility within the district.
- Commitments to implement and fund community design features.
- All improvements identified in the MMTD justification report should be reflected in the transportation element.
- The data and analysis should address daily and peak hour conditions, using techniques described in the FDOT Q/LOS handbook and 2007 LOS Issue Papers (see MMTD Note 3).

- ☐ The MMTD should be consistent with the capital improvement element.
  - The analysis must demonstrate that the capital improvements required to promote community design are financially feasible over the development or redevelopment timeframe for the district.
  - Methods to fund recurring expenses (i.e., transit operating expenses) should be identified.
- ☐ Extra jurisdictional impacts should be addressed.
  - The justification report should accurately reflect the appropriate LOS standards for adjacent local governments and identify any projected deficiencies created by the MMTD.

MMTD Notes:

1. While this FDOT requirement provides reasonable guidance; it can only be enforced by FDOT on SIS (including SIS Connectors and Emerging SIS), FIHS, or TRIP-funded facilities.

2. If the local government's comprehensive plan states that LOS is to be determined based on the FDOT Q/LOS Handbook (or a similar statement referencing the FDOT LOS Handbook), then the FDOT minimum K and D factors will apply. However, if the local government's comprehensive plan does not specify the FDOT Q/LOS Handbook (or the FDOT LOS Handbook) as the method for determining LOS, then it is up to the local government to determine acceptable K and D factors and how LOS is to be determined for non-SIS, non-FIHS, and non-TRIP-funded facilities.

3. If the local government's comprehensive plan states that LOS is to be determined based on the FDOT Q/LOS Handbook (or a similar statement referencing the FDOT LOS Handbook), then the analysis should be based on the latest FDOT Q/LOS Handbook and the 2007 LOS Issue Papers. However, if the local government's comprehensive plan does not specify the FDOT Q/LOS Handbook (or the FDOT LOS Handbook) as the method for determining LOS, then it is up to the local government to specify the method used for determining LOS (based on professionally accepted techniques). FDOT analysis requirements apply to all SIS (including SIS Connectors and Emerging SIS), FIHS, and TRIP-funded facilities.

SECTION 9

OTHER TRANSPORTATION ELEMENT AMENDMENTS

Overview

Other amendments to the transportation element may include, but are not limited to:

- ☐ Changes in LOS standards;
- ☐ Changes in methodology for measuring impacts on transportation facilities; and
- ☐ Various text changes.

FDOT Statutory Authority

Florida Statutes (FS)

- ☐ FS 163.3184(3) Local Government Transmittal of Proposed Plan or Amendment, Paragraph (a) requires local governments to transmit the complete proposed comprehensive plan or plan amendment to FDOT.
- ☐ FS 163.3184(4) Intergovernmental Review requires FDOT to provide comments to DCA within 30 days of receipt of the complete proposed plan amendment.
- ☐ FS 334.044 establishes that FDOT has the responsibility for coordinating the planning of a safe, viable, and balanced state transportation system serving all regions of the state, and to assure the compatibility of all components, including multimodal facilities.
- ☐ FS 163.3180(1)(b) (copy provided in ***Appendix E***) requires local governments to use professionally accepted techniques for measuring LOS for the purpose of ensuring concurrency. FDOT is to develop multimodal LOS methodologies and provide technical assistance to local governments in applying these methodologies. The FDOT Q/LOS Handbook was developed in response to this requirement.
- ☐ FS 163.3180(10) (copy provided in ***Appendix E***) requires local governments to adopt the FDOT LOS standard for facilities on the SIS (including SIS Connectors and Emerging SIS), FIHS, and roadway facilities funded through the TRIP.
- ☐ FS 163.3180(10) (copy provided in ***Appendix E***) and 163.3191(1)(p) addresses roadways that traverse multiple jurisdictions and requires local governments to consider compatibility of LOS standards with standards in adjacent jurisdictions. Also, local governments are encouraged to coordinate with adjacent local governments for the purpose of using common methodologies for measuring transportation impacts in their concurrency management systems.

Florida Administrative Code (FAC)

- ☐ FAC Chapter 14-94 (copy provided in ***Appendix D***) establishes the FDOT LOS standards for SIS (including SIS Connectors and Emerging SIS), FIHS, and TRIP-funded facilities.

- ☐ FAC 9J-5 (copy provided in ***Appendix B***) describes the minimum criteria for review of local government comprehensive plans and plan amendments, evaluation and appraisal reports, land development regulations, and determinations of compliance.

- ☐ FAC 9J-11 (copy provided in ***Appendix C***) describes procedures governing the submittal and review of local government comprehensive plans and amendments.

FDOT Information Needs

The following information should be provided with the proposed amendment. Note that DCA has five days to determine if the material submitted with the comprehensive plan amendment is complete; therefore, it is important for FDOT to notify DCA within this period if the information submitted is not sufficient for evaluating the impacts of the proposed amendment.

- ☐ Proposed comprehensive plan amendment.

Additional information relevant to the review of the proposed amendment that is available from FDOT resources (or can be obtained from the appropriate local government) include:

- ☐ A copy of the local government's existing transportation element and their goals, objectives, and policies that identify the adopted LOS standards.

- ☐ Copies of adjacent local governments' existing transportation elements and their goals, objectives, and policies that identify the adopted LOS standards.

FDOT Review Criteria

The following criteria should be considered:

- ☐ Impacts on the SIS and state transportation system.

- ☐ Use of professionally accepted techniques for measuring LOS.

A description of how these criteria should be considered is provided in the following guidelines.

FDOT Review Guidelines

- ☐ Analysis of impacts on the SIS and the state transportation system – The adopted LOS standard for SIS (including SIS Connectors and Emerging SIS), FIHS, and TRIP-funded facilities should match the FDOT standards (this is a statutory requirement unless a variance has been approved by FDOT). The local government may establish different LOS standards for other state roads.

    - Confirm that the referenced adopted LOS standard for all SIS (including SIS Connectors and Emerging SIS), FIHS, and TRIP-funded facilities are consistent with FDOT standards (see copy of FAC Chapter 14-94 in ***Appendix D***).

    - Note (for internal FDOT information) sections of state highway system where the local government's adopted LOS standard is different from the FDOT standard. Local governments are allowed to set different standards for non-SIS, FIHS, and TRIP-funded facilities. Provide this information to the FDOT District Five LOS coordinator.

- ☐ The amendment should be evaluated to determine the potential impact to SIS (including SIS Connectors and Emerging SIS) facilities and TRIP-funded facilities. If the proposed change results in unacceptable conditions on these types of facilities, the local government shall, in cooperation with FDOT, develop a plan to mitigate these impacts.

- ☐ The local government is required to use professionally accepted techniques for measuring LOS. This includes methods described in the FDOT Q/LOS Handbook and 2007 LOS Issue Papers (see Other Note 1). Comment: if ARTPLAN or similar analysis is used to develop the existing service volume, all backup data should be maintained (i.e., traffic count information, date of count, signal timing data, etc.). If ARTPLAN is used for future service volumes, it should be based on the analysis of future conditions of the intersections (i.e., future turning movements, existing and anticipated signals, and future signal timings).

Other Notes:

1. If the local government's comprehensive plan states that LOS is to be determined based on the FDOT Q/LOS Handbook (or a similar statement referencing the FDOT LOS Handbook), then the analysis should be based on the latest FDOT Q/LOS Handbook and the 2007 LOS Issue Papers. However, if the local government's comprehensive plan does not specify the FDOT Q/LOS Handbook (or the FDOT LOS Handbook) as the method for determining LOS, then it is up to the local government to specify the method used for determining LOS (based on professionally accepted techniques). FDOT analysis requirements apply to all SIS (including SIS Connectors and Emerging SIS), FIHS, and TRIP-funded facilities.

Appendices

A - Future Land Use Element Screening Calculations

B - FAC Chapter 9J-5

C - FAC Chapter 9J-11

D - FAC Chapter 14-94

E - FS 163.3180

F - Evacuation Route Maps

G - Model Proportionate Fair-Share Agreement

Appendix A

Future Land Use Element Screening Calculations

Appendix A

FUTURE LAND USE ELEMENT SCREENING CALCULATIONS

State Highway System Roadway Within One Mile Radius of FLUM Amendment

Area Type	Lanes	FDOT LOS Standard	Type Roadway	Service Volume Daily	Service Volume PHPD	Threshold	Max D	Max Assign	Requires Analysis if Project Trips Exceed	
									Daily	PHPD
Urban	2	D	Class 2	15,400	810	2.5%	63%	60%	600	50
	4	D	Class 2	32,700	1,710	2.5%	63%	60%	1,300	110
	6+	D	Class 2	49,200	2,570	2.5%	63%	60%	2,000	160
Transitioning	2	C	Class 2	10,500	560	2.5%	63%	80%	300	20
	4+	C	Class 2	24,400	1,290	2.5%	63%	80%	700	60
Rural	2	C	Rural Dev. Interrupt	11,000	590	2.5%	63%	90%	300	20
	4+	B	Rural Dev. Interrupt	5,300	290	2.5%	63%	90%	100	10

State Highway System Roadway Within Three Mile Radius of FLUM Amendment

Area Type	Lanes	FDOT LOS Standard	Type Roadway	Service Volume Daily	Service Volume PHPD	Threshold	Max D	Max Assign	Requires Analysis if Project Trips Exceed	
									Daily	PHPD
Urban	2	D	Class 2	15,400	810	2.5%	63%	39%	900	80
	4	D	Class 2	32,700	1,710	2.5%	63%	39%	2,000	170
	6+	D	Class 2	49,200	2,570	2.5%	63%	39%	3,100	260
Transitioning	2	C	Class 2	10,500	560	2.5%	63%	60%	400	30
	4+	C	Class 2	24,400	1,290	2.5%	63%	60%	1,000	80
Rural	2	C	Rural Dev. Interrupt	11,000	590	2.5%	63%	77%	300	30
	4+	B	Rural Dev. Interrupt	5,300	290	2.5%	63%	77%	100	10

Appendix B

FAC Chapter 9J-5

APPENDIX
9J-5
TABLE OF CONTENTS

9J-5.001 Purpose..... 1
9J-5.002 Administration. 1
9J-5.003 Definitions. 3
9J-5.004 Public Participation..... 10
9J-5.005 General Requirements..... 11
9J-5.006 Future Land Use Element. 13
9J-5.010 Housing Element..... 19
9J-5.011 Sanitary Sewer, Solid Waste, Stormwater Management, Potable Water and Natural Groundwater Aquifer Recharge Element. 21
9J-5.012 Coastal Management..... 23
9J-5.013 Conservation Element..... 26
9J-5.015 Intergovernmental Coordination Element. 27
9J-5.016 Capital Improvements Element. 29
9J-5.019 Transportation Element..... 31
9J-5.022 Standards for Review of Required Land Development Regulations..... 35
9J-5.023 Criteria for Determining Consistency of Land Development Regulations with the Comprehensive Plan. 36
9J-5.025 Public School Facilities Element for Public School Concurrency. 36
9J-5.0055 Concurrency Management System. 39

9J-5.001 Purpose.

(1) This chapter establishes minimum criteria for the preparation, review, and determination of compliance of comprehensive plans and plan amendments pursuant to the Local Government Comprehensive Planning and Land Development Regulation Act, Chapter 163, F.S. This chapter establishes criteria implementing the legislative mandate that local comprehensive plans be consistent with the appropriate strategic regional policy plan and the State Comprehensive Plan, and recognizes the major role that local government will play, in accordance with that mandate, in accomplishing the goals and policies of the appropriate comprehensive regional policy plan and the State Comprehensive Plan.

(2) Rule 9J-5.002, F.A.C., contains general guidelines for the exercise of the Department's authority under law to review comprehensive plans and plan amendments for compliance.

(3) Rules 9J-5.022 through 9J-5.024, F.A.C., establish procedures and criteria for the review of land development regulations pursuant to the Local Government Comprehensive Planning and Land Development Regulation Act, Chapter 163, Part II, F.S., and Chapters 9J-5 and 9J-12, F.A.C. It specifies the standards the Department will use in determining whether a local government has totally failed to adopt one or more of the land development regulations required by subsection 163.3202(2), F.S. It specifies procedures to initiate and control the administrative review of land development regulations by substantially affected persons, local governments and the Department. It specifies the criteria for determining consistency of the land development regulations with the comprehensive plan. Local governments may adopt land development regulations which exceed, or are more stringent than, the regulations described in this chapter.

(4) As minimum criteria, these criteria are not intended to prohibit a local government from proposing, considering, adopting, enforcing, or in any other way administering a comprehensive plan which is more specific, detailed, or strict, or which covers additional subject areas, whether within required or optional elements, as long as the comprehensive plan is in compliance with Chapter 9J-5, F.A.C., Chapter 163, F.S., and any other applicable statutes, laws or rules.

(5) When a federal, state or regional agency has implemented a permitting program, the state land planning agency shall not require a local government to duplicate or exceed that permitting program in its comprehensive plan or to implement such a permitting program in its land development regulations. Nothing in this paragraph shall prohibit the state land planning agency, in conducting its review of local plans or plan amendments, from making either objections, recommendations, and comments or compliance determinations regarding densities and intensities consistent with the Act.

Specific Authority 163.3177(9), (10) FS. Law Implemented 163.3161, 163.3167, 163.3171, 163.3177, 163.3178, 163.3180, 163.3181, 163.3184, 163.3187, 163.3191, 163.3194 FS. History–New 3-6-86, Amended 10-20-86, 11-22-89, 4-2-92, 3-23-94, 5-18-94, 3-21-99, 2-25-01.

9J-5.002 Administration.

(1) Compliance Determination. The Department shall determine a comprehensive plan or plan amendment to be in compliance if the comprehensive plan or plan amendment is consistent with Sections 163.3177, 163.3178, and 163.3191, F.S., the appropriate comprehensive regional policy plan, the State Comprehensive Plan and this chapter.

(2) Application of Chapter 9J-5, F.A.C. Due to the varying complexities, sizes, growth rates and other factors associated with local governments in Florida, the Department shall consider the following factors as it provides assistance to local governments and applies this chapter in specific situations with regard to the detail of the data, analyses, and the content of the goals, objectives, policies, and other graphic or textual standards required:

(a) The local government's existing and projected population and rate of population growth.

(b) The geography and size of the local government's jurisdiction, and the extent or existence of undeveloped land.

(c) The existence of natural resource features such as groundwater recharge areas, waterwells, wetlands, wildlife habitat, coastal areas, areas subject to coastal flooding, and living marine resources.

(d) The scale of public services the local government provides or is projected to provide as it relates to the level of capital improvements planning required.

(e) The planning and implementation resources of the local government, and associated local and regional institutions.

(f) The extent of county charter provisions, special or local acts, or intergovernmental agreements which affect the local government's planning activities.

(g) Whether the local government is complying with the evaluation and appraisal requirements in subsection 163.3191(2), F.S., at the same time that it is revising its plan pursuant to subsection 163.3167(2), F.S.

(3) Coastal Resource Plan Consistency. In administering these rules the Department shall also establish procedures for determining consistency of coastal management elements with coastal resource plans prepared and adopted pursuant to general or special law.

(4) Technical Assistance; Additional Aid for Rural Areas.

(a) The Department and all other appropriate state and regional agencies shall render technical assistance and commit any available resources to aiding local governments in their compliance with the provisions of these rules. To this end, the Department shall issue publications, hold conferences, workshops and seminars, and offer individualized technical assistance to each local government to aid its efforts to satisfy its obligations and desires at the transmittal and adoption stages for plans and plan amendments. Assistance shall also be made available to other interested persons. The Department shall exercise maximum flexibility and cooperation in rendering this assistance, while still carrying out its statutory responsibilities.

(b) The Department recognizes the need for wise economic development in rural jurisdictions. Accordingly, the Department shall endeavor to render a high degree of technical assistance to local governments with limited resources, including rural counties and municipalities which are attempting to implement one or more of the growth management strategies for rural areas in this chapter, including assistance with respect to cost and availability of infrastructure, economic development strategies, evaluation of effects on tax base, and efficient and effective handling of development applications.

(5) Federal Coordination with Comprehensive Plans. The Department shall assist in coordinating with federal agencies to encourage federal programs and regulatory activities to be consistent with local government comprehensive plans found to be in compliance with these rules. This assistance shall focus on areas where there are major federal land holdings such as military bases and national parks.

(6) Settlement of Conflicts Through Compliance Agreements. The Department shall attempt to resolve conflicts through informal dispute resolution processes in the administration of this chapter.

(a) Any memorandums, correspondence, notices of meeting and minutes of meetings related to the settlement negotiations shall be maintained by the local government and the Department in a file available to the public, excluding documents exempt from production under Chapter 119, F.S.

(b) The Department may choose to enter into partial compliance agreements which cover fewer than all of the issues raised in the statement of intent for plans or plan amendments. To participate in this method, a local government must stipulate that the settled parts of the plan are not in compliance, agree to the remedial actions set forth in the agreement, and adopt a remedial plan amendment delaying the effective date of the amendment if requested by the Department, or must otherwise provide assurance that the procedural and substantive rights of all parties are preserved. The Department shall also stipulate that it will recommend that no sanctions be imposed by the Administration Commission for the stipulated provisions if the remedial amendments are adopted in a timely fashion.

(c) No compliance agreement, or portion of a compliance agreement, is binding on the Department, a local government, or any other party until reduced to writing and executed by the proper representative of each party. Nothing in this paragraph shall be deemed to prevent any party from making any stipulations of law or fact by counsel or other authorized representative in any administrative proceeding.

(d) Nothing in this subsection shall be deemed to prohibit the use of other informal settlement methods, or the use of informal settlement methods as part of the compliance agreement process. Local governments and other parties are encouraged to investigate other techniques for the settlement of disputes under this chapter. Specifically, the Department endorses the conflict resolution opportunities made available by the regional planning councils and other state agencies or institutions, including the Florida Growth Management Conflict Resolution Consortium. Nothing in this subsection shall be construed to require that any party settle any proceeding. The resolution of any issue through any informal conflict resolution method shall not alter any person's or governing body's right to an administrative or judicial determination of any issue if that person or governing body is entitled to such a determination under law.

(7) Plan Amendment Submittal Requirements. Submittal requirements for plan amendments are as set forth in Chapter 163, Part II, F.S., and Chapter 9J-11, F.A.C.

(8) Effect of Rule Amendments. No amendment to this chapter shall have the effect of causing plans or plan amendments which were adopted prior to the effective date of the amendment to become not in compliance. Minimum criteria contained in any amendment to this chapter shall be addressed in the first subsequent transmitted plan amendment which is directly related to or requires the application of those criteria.

Specific Authority 163.3177(9), (10) FS. Law Implemented 163.3167, 163.3177, 163.3178, 163.3184, 163.3187, 163.3194 FS. History–New 3-6-86, Amended 10-20-86, 5-18-94, 2-25-01.

9J-5.003 Definitions.

As used in this rule chapter, the terms defined in Section 163.3164, F.S., shall have the meanings provided in that section. In addition, the following definitions are provided to clarify terms used in this rule chapter and not to establish or limit regulatory authority of other agencies or programs; however, local governments may choose alternative definitions which the Department shall review to determine whether such definitions accomplish the intent of both this rule chapter and of Chapter 163, Part II, F.S. The use of definitions in this rule which were adopted by rule amendment shall not have the effect of rendering not in compliance a plan or plan amendment adopted prior to the effective date of the rule amendment, nor of changing definitions of terms used in a plan or plan amendment adopted prior to the effective date of the rule amendment.

(1) "Affordable housing" means housing for which monthly rents or monthly mortgage payments, including taxes, insurance, and utilities, do not exceed 30 percent of that amount which represents the percentage of the median adjusted gross annual income for the households or persons indicated in Section 420.0004, F.S. Affordable housing definitions that are prescribed by other affordable housing programs administered by either the United States Department of Housing and Urban Development or the State of Florida may be used by local governments if such programs are implemented by the local government to provide affordable housing.

(2) "Agricultural uses" means activities within land areas which are predominantly used for the cultivation of crops and livestock including: cropland; pastureland; orchards; vineyards; nurseries; ornamental horticulture areas; groves; confined feeding operations; specialty farms; and silviculture areas.

(3) "Airport clear zone" means a designated area of land which is subject to peak aircraft noise and on which there is the highest potential of danger from airport operations.

(4) "Airport facility" means any area of land or water improved, maintained or operated by a governmental agency for the landing and takeoff of aircraft, or privately owned paved runways of 4,000 or more feet in length, and any appurtenant area which is used for airport buildings, or other airport facilities or rights-of-way.

(5) "Airport obstruction" means any structure, object of natural growth, existing condition, or use of land which obstructs the airspace required for the flight of aircraft in landing or taking off at an airport or which otherwise increases the risk of danger to aircraft operations.

(6) "Amendment" means any action of a local government which has the effect of amending, adding to, deleting from or changing an adopted comprehensive plan element or map or map series, including an action affecting a prior plan or plan amendment adoption ordinance, but shall not mean a legislative act which only codifies local legislation or makes corrections, updates and modifications of the capital improvements element concerning costs, revenue sources, acceptance of facilities or facility construction dates consistent with the plan as provided in subsection 163.3177(3)(b), F.S., and corrections, updates, or modifications of current costs in other elements, as provided in subsection 163.3187(2), F.S. Throughout this chapter, references to a plan or comprehensive plan shall also be deemed to refer to a plan amendment.

(7) "Areas subject to coastal flooding" means the areas delineated by the regional or local Hurricane Evacuation Plan as requiring evacuation.

(8) "Arterial road" means a roadway providing service which is relatively continuous and of relatively high traffic volume, long trip length, and high operating speed. In addition, every United States numbered highway is an arterial road.

(9) "Beach" means the zone of unconsolidated material that extends landward from the mean low water line to the place where there is marked change in material or physiographic form, or to the line of permanent vegetation, usually the effective limit of storm waves. "Beach," as used in the coastal management element requirements, is limited to oceanic and estuarine shorelines.

(10) "Bicycle and pedestrian ways" means any road, path or way which is open to bicycle travel and traffic afoot and from which motor vehicles are excluded.

(11) "Capital budget" means the portion of each local government's budget which reflects capital improvements scheduled for a fiscal year.

(12) "Capital improvement" means physical assets constructed or purchased to provide, improve or replace a public facility and which are large scale and high in cost. The cost of a capital improvement is generally nonrecurring and may require multi-year

financing. For the purposes of this rule, physical assets which have been identified as existing or projected needs in the individual comprehensive plan elements shall be considered capital improvements.

(13) "Central Business District" means a compact urban core area of a municipality or unincorporated urbanized area which serves as the primary center for economic activity in the jurisdiction.

(14) "Clustering" means the grouping together of structures and infrastructure on a portion of a development site.

(15) "Coastal area" means the 35 coastal counties and all coastal municipalities within their boundaries designated by the state land planning agency. These local governments are listed in the document entitled "Local Governments Required to Include Coastal Management Elements in Their Comprehensive Plans," dated July 1, 1986, and available from the Department upon request. The local governments listed in the document and any other communities that incorporate subsequent to July 1, 1986, and meet the criteria in Section 380.24, F.S., shall also be included in the coastal area.

(16) "Coastal barriers" means barrier islands, spits, peninsulas, or similar landforms, including the Florida Keys, which front on the Atlantic Ocean, Gulf of Mexico, or Straits of Florida and which separate estuaries or harbors from the open waters of the Atlantic Ocean, Gulf of Mexico, or Straits of Florida.

(17) "Coastal high hazard areas" (also "high-hazard coastal areas") means the evacuation zone for a Category 1 hurricane as established in the regional hurricane evacuation study applicable to the local government.

(18) "Coastal planning area" shall be an area of the local government's choosing when preparing and implementing all requirements of the coastal management element (except those requirements relating to hurricane evacuation, hazard mitigation, water quality, water quantity, estuarine pollution, or estuarine environmental quality); however, this area must encompass all of the following where they occur within the local government's jurisdiction: water and submerged lands of oceanic water bodies or estuarine water bodies; shorelines adjacent to oceanic waters or estuaries; coastal barriers; living marine resources; marine wetlands; water-dependent facilities or water-related facilities on oceanic or estuarine waters; or public access facilities to oceanic beaches or estuarine shorelines; and all lands adjacent to such occurrences where development activities would impact the integrity or quality of the above. When preparing and implementing the hurricane evacuation or hazard mitigation requirements of the coastal management element, the coastal planning area shall be those portions of the local government's jurisdiction which lie in the hurricane vulnerability zone. When preparing and implementing the requirements of the coastal management element concerning water quality, water quantity, estuarine pollution, or estuarine environmental quality, the coastal planning area shall be all occurrences within the local government's jurisdiction of oceanic waters or estuarine waters.

(19) "Coastal or shore protection structures" means shore-hardening structures, such as seawalls, bulkheads, revetments, rubblemound structures, groins, breakwaters, and aggregates of materials other than natural beach sand used for beach or shore protection and other structures which are intended to prevent erosion or protect other structures from wave and hydrodynamic forces including beach and dune restoration.

(20) "Collector road" means a roadway providing service which is of relatively moderate traffic volume, moderate trip length, and moderate operating speed. Collector roads collect and distribute traffic between local roads or arterial roads.

(21) "Commercial uses" means activities within land areas which are predominantly connected with the sale, rental and distribution of products, or performance of services.

(22) "Community park" means a park located near major roadways, and designed to serve the needs of more than one neighborhood.

(23) "Compatibility" means a condition in which land uses or conditions can coexist in relative proximity to each other in a stable fashion over time such that no use or condition is unduly negatively impacted directly or indirectly by another use or condition.

(24) "Composition" means the make up of various land uses by types, extent, intensity, density, or otherwise, which are included in a development or land use category.

(25) "Concurrency" means that the necessary public facilities and services to maintain the adopted level of service standards are available when the impacts of development occur.

(26) "Concurrency Management System" means the procedures and/or process that the local government will utilize to assure that development orders and permits are not issued unless the necessary facilities and services are available concurrent with the impacts of development.

(27) "Cone of influence" means an area around one or more major waterwells the boundary of which is determined by the government agency having specific statutory authority to make such a determination based on groundwater travel or drawdown

depth.

(28) “Conservation uses” means activities or conditions within land areas designated for the purpose of conserving or protecting natural resources or environmental quality, including areas designated for such purposes as flood control, protection of quality or quantity of groundwater or surface water, floodplain management, commercially or recreationally valuable fish and shellfish, or protection of vegetative communities or wildlife habitats.

(29) “Currently available revenue sources” means an existing source and amount of revenue presently available to the local government. It does not include a local government’s present intent to increase the future level or amount of a revenue source which is contingent on ratification by public referendum.

(30) “Deepwater ports” means the ports identified in subsection 403.021(9), F.S., including Jacksonville, Tampa, Port Everglades, Miami, Port Canaveral, Ft. Pierce, Palm Beach, Port Manatee, Port St. Joe, Panama City, St. Petersburg, and Pensacola.

(31) “Density” means an objective measurement of the number of people or residential units allowed per unit of land, such as residents or employees per acre.

(32) “Department” or “agency” means the Florida Department of Community Affairs.

(33) “Development controls” means standards in the comprehensive plan which control the development or use of land and which are in addition to the densities, intensities, and uses assigned to land by the future conditions maps.

(34) “Distribution” means the spatial array of land uses throughout an area.

(35) “Drainage basin” or “stormwater basin” means the area defined by topographic boundaries which contributes stormwater to a watershed, drainage system, estuarine waters, or oceanic waters, including all areas artificially added to the basin.

(36) “Drainage detention structure” means a structure which collects and temporarily stores stormwater for the purpose of treatment through physical, chemical, or biological processes with subsequent gradual release of the stormwater.

(37) “Drainage facilities or stormwater management facilities” means a system of man-made structures designed to collect, convey, hold, divert or discharge stormwater, and includes stormwater sewers, canals, detention structures, and retention structures.

(38) “Drainage retention structure” means a structure designed to collect and prevent the release of a given volume of stormwater by complete on-site storage.

(39) “Dune” means a mound or ridge of loose sediments, usually sand-sized sediments, lying landward of the beach and extending inland to the landward toe of the dune which intercepts the 100-year storm surge.

(40) “Educational uses” means activities and facilities of public or private primary or secondary schools, vocational and technical schools, and colleges and universities licensed by the Florida Department of Education, including the areas of buildings, campus open space, dormitories, recreational facilities or parking.

(41) “Environmentally sensitive lands” means areas of land or water which are determined necessary by the local government, based on locally determined criteria, to conserve or protect natural habitats and ecological systems. Nothing in this definition shall be construed to prohibit silvicultural operations which employ the Florida Department of Agriculture and Consumer Affairs Best Management Practices as revised in 1993.

(42) “Estuary” means a semi-enclosed, naturally existing coastal body of water in which saltwater is naturally diluted by fresh water and which has a connection with oceanic waters, including bays, embayments, lagoons, sounds and tidal streams.

(43) “Evacuation routes” means routes designated by county civil defense authorities or the regional evacuation plan for the movement of persons to safety in the event of a hurricane.

(44) “Evaluation and appraisal report” means an evaluation and appraisal report as adopted by the local governing body in accordance with the requirements of Section 163.3191, F.S.

(45) “Extent” means the amount of development, including the area or size in acres.

(46) “Facility availability” means whether or not a facility is available in a manner to satisfy the concurrency management system.

(47) “Flood plains” means areas inundated during a 100-year flood event or identified by the National Flood Insurance Program as an A Zone or V Zone on Flood Insurance Rate Maps or Flood Hazard Boundary Maps.

(48) “Floodprone areas” means areas inundated during a 100-year flood event or areas identified by the National Flood Insurance Program as an A Zone on Flood Insurance Rate Maps or Flood Hazard Boundary Maps.

(49) “Foster care facility” means a facility which houses foster residents and provides a family living environment for the residents, including such supervision and care as may be necessary to meet the physical, emotional and social needs of the residents and serving either children or adult foster residents.

(50) “Functional relationship” means a complementary and interactive relationship among land uses or development, including at a minimum a substantial and positive exchange of human interaction, goods, resources, institutions, services, jobs or workers between land uses or developments.

(51) “General Lanes” means intrastate roadway lanes not exclusively designated by the Florida Department of Transportation for long distance, high speed travel. In urbanized areas, general lanes include high occupancy vehicle lanes not physically separated from other travel lanes.

(52) “Goal” means the long-term end toward which programs or activities are ultimately directed.

(53) “Group home” means a facility which provides a living environment for unrelated residents who operate as the functional equivalent of a family, including such supervision and care as may be necessary to meet the physical, emotional and social needs of the residents. Adult congregate living facilities comparable in size to group homes are included in this definition. It shall not include rooming or boarding homes, clubs, fraternities, sororities, monasteries or convents, hotels, residential treatment facilities, nursing homes, or emergency shelters.

(54) “Hazardous waste” means solid waste, or a combination of solid wastes, which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or may pose a substantial present or potential hazard to human health or the environment when improperly transported, disposed of, stored, treated or otherwise managed.

(55) “Historic resources” means all areas, districts or sites containing properties listed on the Florida Master Site File, the National Register of Historic Places, or designated by a local government as historically, architecturally, or archaeologically significant.

(56) “Hurricane shelter” means a structure designated by local officials as a place of safe refuge during a storm or hurricane.

(57) “Hurricane vulnerability zone” (also “areas subject to coastal flooding”) means the areas delineated by the regional or local hurricane evacuation plan as requiring evacuation. The hurricane vulnerability zone shall include areas requiring evacuation in the event of a 100-year storm or Category 3 storm event.

(58) “Industrial uses” means the activities within land areas predominantly connected with manufacturing, assembly, processing, or storage of products.

(59) “Infrastructure” means those man-made structures which serve the common needs of the population, such as: sewage disposal systems; potable water systems; potable water wells serving a system; solid waste disposal sites or retention areas; stormwater systems; utilities; piers; docks; wharves; breakwaters; bulkheads; seawalls; bulwarks; revetments; causeways; marinas; navigation channels; bridges; and roadways.

(60) “Intensity” means an objective measurement of the extent to which land may be developed or used, including the consumption or use of the space above, on or below ground; the measurement of the use of or demand on natural resources; and the measurement of the use of or demand on facilities and services.

(61) “Interagency hazard mitigation report” means the recommendations of a team of federal, state, regional, or local officials which address measures to reduce the potential for future flood losses and which is prepared in response to a Presidential Disaster Declaration.

(62) “Level of service” means an indicator of the extent or degree of service provided by, or proposed to be provided by, a facility based on and related to the operational characteristics of the facility. Level of service shall indicate the capacity per unit of demand for each public facility.

(63) “Limited access facility” means a roadway especially designed for through traffic, and over, from, or to which owners or occupants of abutting land or other persons have no greater than a limited right or easement of access.

(64) “Living marine resources” means oceanic or estuarine plants or animals, such as mangroves, seagrasses, algae, coral reefs, and living marine habitat; fish, shellfish, crustacea and fisheries; and sea turtles and marine mammals.

(65) “Local peacetime emergency plan” means the plans prepared by the county civil defense or county emergency management agency addressing weather-related natural hazards and man-made disasters except nuclear power plant accidents and war. The plan covers hazard mitigation, emergency preparedness, emergency response, emergency recovery and in coastal counties, hurricane evacuation.

(66) “Local road” means a roadway providing service which is of relatively low traffic volume, short average trip length or minimal through traffic movements, and high volume land access for abutting property.

(67) “Low income household” has the meaning provided in Section 420.0004, F.S.

(68) “Major trip generators or attractors” means concentrated areas of intense land use or activity that produces or attracts a significant number of local trip ends.

(69) “Manufactured home” means a residential manufactured home meeting the definition in Section 320.01, F.S.

(70) “Marine habitat” means areas where living marine resources naturally occur, such as mangroves, seagrass beds, algal beds, salt marshes, transitional wetlands, marine wetlands, rocky shore communities, hard bottom communities, oyster bars or flats, mud flats, coral reefs, worm reefs, artificial reefs, offshore springs, nearshore mineral deposits, and offshore sand deposits.

(71) “Marine wetlands” means areas with a water regime determined primarily by tides and the dominant vegetation is salt tolerant plant species including those species listed in subsection 62-301.200(3), F.A.C., “Submerged Marine Species.”

(72) “Minerals” means all solid minerals, including clay, gravel, phosphate rock, lime, shells (excluding live shellfish), stone, sand, heavy minerals, and any rare earths, which are contained in the soils or waters of the state.

(73) “Mobile home” means a structure meeting the definition in Section 320.01, F.S.

(74) “Moderate income household” has the meaning provided in Section 420.0004, F.S.

(75) “Natural drainage features” means the naturally occurring features of an area which accommodate the flow of significant amounts of stormwater, such as streams, rivers, lakes, sloughs, floodplains and wetlands.

(76) “Natural drainage flow” means the pattern of surface and storm water drainage through or from a particular site before the construction or installation of improvements or prior to regrading.

(77) “Natural groundwater aquifer recharge areas” or “natural groundwater recharge areas” or “groundwater recharge areas” means areas contributing to or providing volumes of water which make a contribution to the storage or regional flow of an aquifer.

(78) “Natural reservations” means areas designated for conservation purposes, and operated by contractual agreement with or managed by a federal, state, regional or local government or non-profit agency such as: national parks, state parks, lands purchased under the Save Our Coast, Conservation and Recreation Lands or Save Our Rivers programs, sanctuaries, preserves, monuments, archaeological sites, historic sites, wildlife management areas, national seashores, and Outstanding Florida Waters. This definition does not include privately owned land managed by a state agency on either a voluntary or a short-term contractual basis.

(79) “Neighborhood park” means a park which serves the population of a neighborhood and is generally accessible by bicycle or pedestrian ways.

(80) “New town” means a new urban activity center and community designated on the future land use map and located within a rural area or at the rural-urban fringe, clearly functionally distinct or geographically separated from existing urban areas and other new towns. A new town shall be of sufficient size, population and land use composition to support a variety of economic and social activities consistent with an urban area designation. New towns shall include basic economic activities; all major land use categories, with the possible exception of agricultural and industrial; and a centrally provided full range of public facilities and services. A new town shall be based on a master development plan, and shall be bordered by land use designations which provide a clear distinction between the new town and surrounding land uses.

(81) “Nonpoint source pollution” means any source of water pollution that is not a point source.

(82) “Objective” means a specific, measurable, intermediate end that is achievable and marks progress toward a goal.

(83) “Oceanic waters” means waters of the Atlantic Ocean, Gulf of Mexico, or Straits of Florida, excluding estuaries.

(84) “Open spaces” means undeveloped lands suitable for passive recreation or conservation uses.

(85) “Park” means a neighborhood, community, or regional park.

(86) “Partial evaluation and appraisal report” means an evaluation and appraisal report which focuses on selected issues or elements that may only be submitted by a municipality with fewer than 5,000 residents or a county with fewer than 50,000 residents pursuant to a written agreement with the Department and in accordance with the requirements of Section 163.3191(12), F.S.

(87) “Pattern” means the form of the physical dispersal of development or land use.

(88) “Playground” means a recreation area with play apparatus.

(89) “Point source pollution” means any source of water pollution that constitutes a discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture.

(90) “Policy” means the way in which programs and activities are conducted to achieve an identified goal.

(91) “Pollution” is the presence in the outdoor atmosphere, ground or water of any substances, contaminants, noise, or manmade or man-induced alteration of the chemical, physical, biological, or radiological integrity of air or water, in quantities or at levels

which are or may be potentially harmful or injurious to human health or welfare, animal or plant life, or property, or unreasonably interfere with the enjoyment of life or property.

(92) “Port facility” means harbor or shipping improvements used predominantly for commercial purposes including channels, turning basins, jetties, breakwaters, landings, wharves, docks, markets, structures, buildings, piers, storage facilities, plazas, anchorages, utilities, bridges, tunnels, roads, causeways, and all other property or facilities necessary or useful in connection with commercial shipping.

(93) “Potable water facilities” means a system of structures designed to collect, treat, or distribute potable water, and includes water wells, treatment plants, reservoirs, and distribution mains.

(94) “Potable water wellfield” means the site of one or more water wells which supply potable water for human consumption to a water system which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

(95) “Private recreation sites” means sites owned by private, commercial or non-profit entities available to the public for purposes of recreational use.

(96) “Proposed evaluation and appraisal report” means a draft evaluation and appraisal report prepared by the local planning agency that is transmitted to the local governing body for review and adoption.

(97) “Public access” means the ability of the public to physically reach, enter or use recreation sites including beaches and shores.

(98) “Public recreation sites” means sites owned or leased on a long-term basis by a federal, state, regional or local government agency for purposes of recreational use.

(99) “Public buildings and grounds” means structures or lands that are owned, leased, or operated by a government entity, such as civic and community centers, hospitals, libraries, police stations, fire stations, and government administration buildings.

(100) “Public Transit” means passenger services provided by public, private or non-profit entities such as the following surface transit modes: commuter rail, rail rapid transit, light rail transit, light guideway transit, express bus, and local fixed route bus.

(101) “Purchase of development rights” means the acquisition of a governmentally recognized right to develop land which is severed from the realty and held or further conveyed by the purchaser.

(102) “Recreation” means the pursuit of leisure time activities occurring in an indoor or outdoor setting.

(103) “Recreation facility” means a component of a recreation site used by the public such as a trail, court, athletic field or swimming pool.

(104) “Recreational uses” means activities within areas where recreation occurs.

(105) “Regional park” means a park which is designed to serve two or more communities.

(106) “Relocation housing” means those dwellings which are made available to families displaced by public programs, provided that such dwellings are decent, safe and sanitary and within the financial means of the families or individuals displaced.

(107) “Resident population” means inhabitants counted in the same manner utilized by the United States Bureau of the Census, in the category of total population. Resident population does not include seasonal population.

(108) “Residential uses” means activities within land areas used predominantly for housing.

(109) “Right-of-way” means land in which the state, a county, or a municipality owns the fee simple title or has an easement dedicated or required for a transportation or utility use.

(110) “Roadway functional classification” means the assignment of roads into categories according to the character of service they provide in relation to the total road network. Basic functional categories include limited access facilities, arterial roads, and collector roads, which may be subcategorized into principal, major or minor levels. Those levels may be further grouped into urban and rural categories.

(111) “Rural areas” means low density areas characterized by social, economic and institutional activities which may be largely based on agricultural uses or the extraction of natural resources in unprocessed form, or areas containing large proportions of undeveloped, unimproved, or low density property.

(112) “Rural village” or “rural activity center” means a small, compact node of development within a rural area containing development, uses and activities which are supportive of and have a functional relationship with the social, economic and institutional needs of the surrounding rural areas.

(113) “Sanitary sewer facilities” means structures or systems designed for the collection, transmission, treatment, or disposal of sewage and includes trunk mains, interceptors, treatment plants and disposal systems.

(114) “Sanitary sewer interceptor” means a sewerage conduit which connects directly to, and transmits sewage to, a treatment plant.

(115) “Sanitary sewer trunk main” means a sewerage conduit which connects directly to, and transmits sewage to, an interceptor.

(116) “Seasonal population” means part-time inhabitants who utilize, or may be expected to utilize, public facilities or services, but are not residents. Seasonal population shall include tourists, migrant farmworkers, and other short-term and long-term visitors.

(117) “Services” means the programs and employees determined necessary by local government to provide adequate operation and maintenance of public facilities and infrastructure as well as those educational, health care, social and other programs necessary to support the programs, public facilities, and infrastructure set out in the local plan or required by local, state, or federal law.

(118) “Shoreline” or “shore” means the interface of land and water and, as used in the coastal management element requirements, is limited to oceanic and estuarine interfaces.

(119) “Solid waste” means sludge from a waste treatment works, water supply treatment plant, or air pollution control facility or garbage, rubbish, refuse, or other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations.

(120) “Solid waste facilities” means structures or systems designed for the collection, processing or disposal of solid wastes, including hazardous wastes, and includes transfer stations, processing plants, recycling plants, and disposal systems.

(121) “Solid waste processing plant” means a facility for incineration, resource recovery, or recycling of solid waste prior to its final disposal.

(122) “Solid waste transfer station” means a facility for temporary collection of solid waste prior to transport to a processing plant or to final disposal.

(123) “Stormwater” means the flow of water which results from a rainfall event.

(124) “Stormwater facilities” means manmade structures that are part of a stormwater management system designed to collect, convey, hold, divert, or discharge stormwater, and may include stormwater sewers, canals, detention facilities and retention facilities.

(125) “Stormwater management system” has the meaning described in subsection 62-40.210(21), F.A.C., (1992).

(126) “Sufficiency review” means Department review of an adopted evaluation and appraisal report to determine whether it has been submitted in a timely fashion and whether it contains components in accordance with the prescribed criteria in Section 163.3191, F.S., and this rule chapter.

(127) “Support documents” means any surveys, studies, inventory maps, data, inventories, listings or analyses used as bases for or in developing the local comprehensive plan.

(128) “Suitability” means the degree to which the existing characteristics and limitations of land and water are compatible with a proposed use or development.

(129) “Transfer of development rights” means a governmentally recognized right to use or develop land at a certain density, or intensity, or for a particular purpose, which is severed from the realty and placed on some other property.

(130) “Transportation demand management” means strategies and techniques that can be used to increase the efficiency of the transportation system. Demand management focuses on ways of influencing the amount and demand for transportation by encouraging alternatives to the single-occupant automobile and by altering local peak hour travel demand. These strategies and techniques may, among others, include: ridesharing programs, flexible work hours, telecommuting, shuttle services, and parking management.

(131) “Transportation disadvantaged” means those individuals who because of physical or mental disability, income status, or age are unable to transport themselves or purchase transportation and are therefore dependent upon others to obtain access to health care, employment, education, shopping, social activities, or other life-sustaining activities.

(132) “Transportation system management” means improving roads, intersections, and other related facilities to make the existing transportation system operate more efficiently. Transportation system management techniques include demand management strategies, incident management strategies, and other actions that increase the operating efficiency of the existing system.

(133) “Urban area” means an area of or for development characterized by social, economic and institutional activities which are predominantly based on the manufacture, production, distribution, or provision of goods and services in a setting which typically includes residential and nonresidential development uses other than those which are characteristic of rural areas.

(134) “Urban sprawl” means urban development or uses which are located in predominantly rural areas, or rural areas

interspersed with generally low-intensity or low-density urban uses, and which are characterized by one or more of the following conditions: (a) The premature or poorly planned conversion of rural land to other uses; (b) The creation of areas of urban development or uses which are not functionally related to land uses which predominate the adjacent area; or (c) The creation of areas of urban development or uses which fail to maximize the use of existing public facilities or the use of areas within which public services are currently provided. Urban sprawl is typically manifested in one or more of the following land use or development patterns: Leapfrog or scattered development; ribbon or strip commercial or other development; or large expanses of predominantly low-intensity, low-density, or single-use development.

(135) "Vegetative communities" means ecological communities, such as coastal strands, oak hammocks, and cypress swamps, which are classified based on the presence of certain soils, vegetation and animals.

(136) "Very low income household" has the meaning provided in Section 420.0004, F.S.

(137) "Water-dependent uses" means activities which can be carried out only on, in or adjacent to water areas because the use requires access to the water body for: waterborne transportation including ports or marinas; recreation; electrical generating facilities; or water supply.

(138) "Water recharge areas" means land or water areas through which groundwater is replenished.

(139) "Water-related uses" means activities which are not directly dependent upon access to a water body, but which provide goods and services that are directly associated with water-dependent or waterway uses.

(140) "Water wells" means wells excavated, drilled, dug, or driven for the supply of industrial, agricultural or potable water for general public consumption.

(141) "Wellhead protection area" means an area designated by local government to provide land use protection for the groundwater source for a potable water wellfield, as defined in this rule chapter, including the surface and subsurface area surrounding the wellfield. Differing levels of protection may be established within the wellhead protection area commensurate with the capacity of the well and an evaluation of the risk to human health and the environment. Wellhead protection areas shall be delineated using professionally accepted methodologies based on the best available data and taking into account any zone of contribution described in existing data.

(142) "Wetlands" as used in this rule chapter has the meaning as defined in subsection 373.019(22), F.S., and as further described by the delineation methodology in Section 373.4211, F.S.

Specific Authority 163.3177(9), (10) FS. Law Implemented 163.3177, 163.3178 FS. History–New 3-6-86, Amended 10-20-86, 11-22-89, 4-2-92, 3-23-94, 5-18-94, 3-21-99, 2-25-01.

9J-5.004 Public Participation.

(1) The local governing body and the local planning agency shall adopt procedures to provide for and encourage public participation in the planning process, including consideration of amendments to the comprehensive plan and evaluation and appraisal reports.

(2) The procedures shall include the following:

(a) Provisions to assure that real property owners are put on notice, through advertisement in a newspaper of general circulation in the area or other method adopted by the local government, of official actions that will affect the use of their property;

(b) Provisions for notice to keep the general public informed;

(c) Provisions to assure that there are opportunities for the public to provide written comments;

(d) Provisions to assure that the required public hearings are held; and

(e) Provisions to assure the consideration of and response to public comments.

(3) Local governments are encouraged to make executive summaries of comprehensive plans available to the general public and should, while the planning process is ongoing, release information at regular intervals to keep its citizenry apprised of planning activities.

Specific Authority 163.3177(9), (10) FS. Law Implemented 163.3177(9), (10), 163.3181 FS. History–New 3-6-86, Amended 10-20-86.

9J-5.005 General Requirements.

(1) Format Requirements.

(a) Each comprehensive plan shall include the content for all elements as required by law and this chapter; however, related elements may be combined.

(b) If the local government chooses to combine elements, it shall clearly indicate where in the comprehensive plan or support documents all statutory requirements of Sections 163.3177 and 163.3178, F.S., and the requirements of this chapter are met. The comprehensive plan shall contain an explanation of such combinations.

(c) The comprehensive plan shall consist of those items listed below in this paragraph. All other documentation may be considered as support documents. Support documents do not have to be adopted unless the local government desires to adopt all or part of the support documents as part of the comprehensive plan. All background data, studies, surveys, analyses and inventory maps not adopted as part of the comprehensive plan shall be available for public inspection while the comprehensive plan is being considered for adoption and while it is in effect. Unless a local government desires to include more, the adopted comprehensive plan shall consist of:

1. Goals, objectives, and policies;
2. Requirements for capital improvements implementation;
3. Procedures for monitoring and evaluation of the local plan;
4. The countrywide marina siting plan for participating local governments in the coastal area;
5. Required maps showing future conditions, including the future land use map or map series;
6. A copy of the local comprehensive plan adoption ordinance at such time as the plan is adopted; and
7. Intergovernmental coordination processes.

(d) The comprehensive plan format shall include:

1. A table of contents;
2. Numbered pages;
3. Element headings;
4. Section headings within elements;
5. A list of included tables, maps, and figures;
6. Titles and sources for all included tables, maps, and figures;
7. A preparation date; and
8. Name of the preparer.

(e) All maps included in the comprehensive plan shall include major natural and man-made geographic features, city, county, and state lines, when applicable; and shall contain a legend indicating a north arrow, map scale, and date.

(2) Data and Analyses Requirements.

(a) All goals, objectives, policies, standards, findings and conclusions within the comprehensive plan and its support documents, and within plan amendments and their support documents, shall be based upon relevant and appropriate data and the analyses applicable to each element. To be based on data means to react to it in an appropriate way and to the extent necessary indicated by the data available on that particular subject at the time of adoption of the plan or plan amendment at issue. Data or summaries thereof shall not be subject to the compliance review process. However, the Department will review each comprehensive plan for the purpose of determining whether the plan is based on the data and analyses described in this chapter and whether the data were collected and applied in a professionally acceptable manner. All tables, charts, graphs, maps, figures and data sources, and their limitations, shall be clearly described where such data occur in the above documents. Local governments are encouraged to use graphics and other techniques for making support information more readily useable by the public.

(b) This chapter shall not be construed to require original data collection by local government; however, local governments are encouraged to utilize any original data necessary to update or refine the local government comprehensive plan data base so long as methodologies are professionally accepted.

(c) Data are to be taken from professionally accepted existing sources, such as the United States Census, State Data Center, State University System of Florida, regional planning councils, water management districts, or existing technical studies. The data used shall be the best available existing data, unless the local government desires original data or special studies. Where data augmentation, updates, or special studies or surveys are deemed necessary by local government, appropriate methodologies shall be clearly described or referenced and shall meet professionally accepted standards for such methodologies. Among the sources

available to local governments are those identified in "The Guide to Local Comprehensive Planning Data Sources" published by the Department in 1989. Among the sources of data for preliminary identification of wetland locations are the National Wetland Inventory Maps prepared by the U.S. Fish and Wildlife Service.

(d) Primary data sources such as United States Census reports, other government data documents, local computerized data, and original map sheets used to compile required maps need not be printed in their entirety within either the support documents or the comprehensive plan. Summaries of support documents shall be submitted to the Department along with the comprehensive plan at the time of compliance review to aid in the Department's determination of compliance and consistency. As a local alternative to providing data and analyses summaries, complete data and analyses sufficient to support the comprehensive plan may be submitted to the Department at the time of compliance review. The Department may require submission of the complete or more detailed data or analyses during its compliance review if, in the opinion of the Department, the summaries are insufficient to determine compliance or consistency of the plan.

(e) The comprehensive plan shall be based on resident and seasonal population estimates and projections. Resident and seasonal population estimates and projections shall be either those provided by the University of Florida, Bureau of Economic and Business Research, those provided by the Executive Office of the Governor, or shall be generated by the local government. If the local government chooses to base its plan on the figures provided by the University of Florida or the Executive Office of the Governor, medium range projections should be utilized. If the local government chooses to base its plan on either low or high range projections provided by the University of Florida or the Executive Office of the Governor, a detailed description of the rationale for such a choice shall be included with such projections.

1. If the local government chooses to prepare its own estimates and projections, it shall submit estimates and projections and a description of the methodologies utilized to generate the projections and estimates to the Department with its plan when the plan is due for compliance review unless it has submitted them for advance review. If a local government chooses to prepare its own resident and seasonal population estimates and projections, it may submit them and a description of the methodology utilized to prepare them to the Department prior to the time of compliance review. The Department may request additional information regarding the methodology utilized to prepare the estimates and projections.

2. The Department will evaluate the application of the methodology utilized by a local government in preparing its own population estimates and projections and determine whether the particular methodology is professionally accepted. The Department shall provide its findings to the local government within sixty days. In addition, the Department shall make available, upon request, beginning on December 1, 1986, examples of methodologies for resident and seasonal population estimates and projections that are deemed by the Department to be professionally acceptable. The Department shall be guided by the Executive Office of the Governor, in particular the State Data Center, in its review of any population estimates, projections, or methodologies proposed by local governments.

(f) Local governments may submit textual portions of the proposed or adopted comprehensive plan or plan amendment, or their support documents, in the form of electronic processing storage media. A local government wishing to do this must first verify with the Department that the programs necessary to access the media are available to the Department and other agencies and, if so, then send one hard copy and clearly labeled storage media copies for distribution to external agencies.

(g) A local government may include, as part of its adopted plan, documents adopted by reference but not incorporated verbatim into the plan. The adoption by reference must identify the title and author of the document and indicate clearly what provisions and edition of the document is being adopted. The adoption by reference may not include future amendments to the document because this would violate the statutory procedure for plan amendments and frustrate public participation on those amendments. A local government may include a provision in its plan stating that all documents adopted by reference are as they existed on a date certain. Documents adopted by reference that are revised subsequent to plan adoption will need to have their reference updated within the plan through the amendment process. Unless documents adopted by reference comply with paragraph 9J-5.005(2)(g), F.A.C., or are in the F.S., the F.A.C., or the Code of Federal Regulations, copies or summaries of the documents shall be submitted as support documents for the adopted portions of the plan amendment.

(3) Level of Service Standards. Level of service standards shall be established for ensuring that adequate facility capacity will be provided for future development and for purposes of issuing development orders or development permits, pursuant to Section 163.3202(2)(g), F.S. Each local government shall establish a level of service standard for each public facility located within the boundary for which the local government has authority to issue development orders or development permits. Level of service standards shall be set for each individual facility or facility type and not on a systemwide basis.

(4) Planning Timeframe. Each local government comprehensive plan shall include at least two planning periods: one for at least the first five-year period subsequent to the plan's adoption and one for at least an overall ten-year period.

(5) Internal Consistency.

(a) The required elements and any optional elements shall be consistent with each other. All elements of a particular comprehensive plan shall follow the same general format (see "Format Requirements"). Where data are relevant to several elements, the same data shall be used, including population estimates and projections.

(b) Each map depicting future conditions must reflect goals, objectives, and policies within all elements and each such map must be contained within the comprehensive plan.

(6) Plan Implementation Requirements. Recognizing that the intent of the Legislature is that local government comprehensive plans are to be implemented, pursuant to subsection 163.3161(5) and Sections 163.3194, 163.3201, and 163.3202, F.S., the sections of the comprehensive plan containing goals, objectives, and policies shall describe how the local government's programs, activities, and land development regulations will be initiated, modified or continued to implement the comprehensive plan in a consistent manner. It is not the intent of this chapter to require the inclusion of implementing regulations in the comprehensive plan but rather to require identification of those programs, activities, and land development regulations that will be part of the strategy for implementing the comprehensive plan and the goals, objectives, and policies that describe how the programs, activities, and land development regulations will be carried out consistent with Section 163.3201, F.S. Goals, objectives and policies shall establish meaningful and predictable standards for the use and development of land and provide meaningful guidelines for the content of more detailed land development and use regulations. This chapter does not mandate the creation, limitation, or elimination of regulatory authority for other agencies nor does it authorize the adoption or require the repeal of any rules, criteria, or standards of any local, regional, or state agency.

(7) Monitoring and Evaluation Procedures. Each element of the comprehensive plan shall contain procedures for monitoring, evaluating and appraising implementation of the plan. Specific measurable objectives shall be included to provide a basis for evaluating effectiveness as required by Section 163.3191, F.S. Such procedures may include reporting requirements for entities responsible for implementing the objectives of the plan, records regarding the availability of new or revised data, planning and development activities, other actions taken to implement the plan, such as, capital improvements planning, adoption of interlocal agreements, issuance of development orders, certificates of occupancy, and land use changes.

(8) Recognition of Private Property Rights and Vested Rights. The Department recognizes private property rights created by law and guaranteed by the State and Federal Constitutions and the existence of legitimate and often competing public and private interests in land use regulations and other government action. Local governments may include appropriate provisions in their plans for the recognition of statutory and common law vested rights.

(9) Duplication of Regulations. When a federal, state, or regional agency has implemented a regulatory program, the department shall not require a local government to duplicate that regulatory program in its local comprehensive plan.

Specific Authority 163.3177(9), (10) FS. Law Implemented 163.3167, 163.3171, 163.3174, 163.3177, 163.3178, 163.3181, 163.3184, 163.3187, 163.3191, 163.3194 FS. History–New 3-6-86, Amended 10-20-86, 11-22-89, 3-23-94, 5-18-94, 3-21-99, 2-25-01.

9J-5.006 Future Land Use Element.

The purpose of the future land use element is the designation of future land use patterns as reflected in the goals, objectives and policies of the local government comprehensive plan elements. Future land use patterns are depicted on the future land use map or map series within the element.

(1) Existing Land Use Data Requirements. The element shall be based upon the following data requirements pursuant to subsection 9J-5.005(2), F.A.C.

(a) The following generalized land uses or conditions shall be shown on the existing land use map or map series:

1. Residential use;
2. Commercial use;
3. Industrial use;
4. Agricultural use;
5. Recreational use;
6. Conservation use;

7. Educational use;
8. Public buildings and grounds;
9. Other public facilities;
10. Vacant or undeveloped land; and
11. Historic resources.

(b) The following natural resources shall be shown on the existing land use map or map series:

1. Existing and planned public potable waterwells and wellhead protection areas;
2. Beaches and shores, including estuarine systems;
3. Rivers, bays, lakes, floodplains, and harbors;
4. Wetlands; and
5. Minerals and soils.

(c) The approximate acreage and the general range of density or intensity of use shall be provided in tabular form for the gross land area included in each existing land use category.

(d) If determined by the local government to be appropriate, educational uses, public buildings and grounds, and other public facilities may be shown as one land use category on the existing land use map or map series.

(e) If the local government has determined it necessary to utilize other categories of the public and private use of land, such categories of land use shall be shown on the existing land use map or map series, and clearly identified in the legend.

(f) The existing land use map or map series shall:

1. Indicate the generalized land uses of land adjacent to its boundaries; municipalities shall also indicate unincorporated enclaves located within their corporate limits;
2. Identify any areas that fall within a designated area of critical state concern, pursuant to Section 380.05, F.S.; and
3. Identify any existing dredge spoil disposal sites for coastal counties and municipalities that have dredge spoil disposal responsibilities.

(g) Population projections as prescribed in the general requirements section of this chapter.

(2) Land Use Analysis Requirements. The element shall be based upon the following analyses which support the comprehensive plan pursuant to subsection 9J-5.005(2), F.A.C.

(a) An analysis of the availability of facilities and services as identified in the traffic circulation, transportation, and sanitary sewer, solid waste, drainage, potable water and natural groundwater aquifer recharge elements, to serve existing land uses included in the data requirements above and land for which development orders have been issued;

(b) An analysis of the character and magnitude of existing vacant or undeveloped land in order to determine its suitability for use, including where available:

1. Gross vacant or undeveloped land area, as indicated in paragraph (1)(b);
2. Soils;
3. Topography;
4. Natural resources; and
5. Historic resources;

(c) An analysis of the amount of land needed to accommodate the projected population, including:

1. The categories of land use and their densities or intensities of use,
2. The estimated gross acreage needed by category, and
3. A description of the methodology used;

(d) An analysis of the need for redevelopment including:

1. Renewal of blighted areas, and
2. Elimination or reduction of uses inconsistent with the community's character and proposed future land uses;

(e) An analysis of the proposed development and redevelopment of flood prone areas based upon a suitability determination from Flood Insurance Rate Maps, Flood Hazard Boundary Maps, or other most accurate information available.

(f) For coastal counties and municipalities with dredge spoil responsibilities, include an analysis of the need for additional dredge spoil disposal sites through the long term planning period established in the plan.

(g) An analysis of proposed development and redevelopment based on recommendations, deemed appropriate by the local government, contained in any existing or future hazard mitigation reports.

(3) Requirements for Future Land Use Goals, Objectives and Policies.

(a) The element shall contain one or more goal statements which establish the long-term end toward which land use programs and activities are ultimately directed.

(b) The element shall contain one or more specific objectives for each goal statement which address the requirements of paragraph 163.3177(6)(a), F.S., and which:

1. Coordinate future land uses with the appropriate topography and soil conditions, and the availability of facilities and services;

2. Encourage the redevelopment and renewal of blighted areas;

3. Encourage the elimination or reduction of uses inconsistent with the community's character and future land uses;

4. Ensure the protection of natural resources and historic resources;

5. Coordinate coastal planning area population densities with the appropriate local or regional hurricane evacuation plan, when applicable;

6. Coordinate future land uses by encouraging the elimination or reduction of uses that are inconsistent with any interagency hazard mitigation report recommendations that the local government determines to be appropriate;

7. Coordinate with any appropriate resource planning and management plan prepared pursuant to Chapter 380, F.S., and approved by the Governor and Cabinet;

8. Discourage the proliferation of urban sprawl;

9. Ensure the availability of suitable land for utility facilities necessary to support proposed development;

10. Encourage the use of innovative land development regulations which may include provisions for planned unit developments and other mixed land use development techniques; and

11. Ensure the availability of dredge spoil disposal sites for coastal counties and municipalities that have spoil disposal responsibilities.

(c) The element shall contain one or more policies for each objective which address implementation activities for the:

1. Regulation of land use categories included on the future land use map or map series; subdivisions; signage; and areas subject to seasonal or periodic flooding;

2. Provision for compatibility of adjacent land uses;

3. Provision that facilities and services meet the locally established level of service standards, and are available concurrent with the impacts of development, or that development orders and permits are specifically conditioned on the availability of the facilities and services necessary to serve the proposed development; and that facilities that provide utility service to the various land uses are authorized at the same time as the land uses are authorized;

4. Provision for drainage and stormwater management, open space, and safe and convenient on-site traffic flow, considering needed vehicle parking;

5. Provision of mixed land use designation policies, if locally desired;

6. Protection of potable water wellfields by designating appropriate activities and land uses within wellhead protection areas, and environmentally sensitive land;

7. Establishment of standards for densities or intensities of use for each future land use category;

8. Identification, designation and protection of historically significant properties; and

9. Designation of dredge spoil disposal sites for counties and municipalities located in the coastal area and include the criteria for site selection established in consultation with navigation and inlet districts and other appropriate state and federal agencies and the public. Site selection criteria shall ensure sufficient sites to meet future needs, be consistent with environmental and natural resource protection policies established in the elements of this plan and meet reasonable cost and transportation requirements.

(4) Future Land Use Map.

(a) The proposed distribution, extent, and location of the following generalized land uses shall be shown on the future land use map or map series:

1. Residential use;

2. Commercial use;

3. Industrial use;

4. Agricultural use;

5. Recreational use;

6. Conservation use;

7. Educational use;

8. Public buildings and grounds;

9. Other public facilities; and

10. Historic district boundaries and designated historically significant properties meriting protection.

11. Transportation concurrency management area boundaries or transportation concurrency exception area boundaries, if any such areas have been designated.

12. Multimodal transportation district boundaries, if any such areas have been designated.

(b) The following natural resources or conditions shall be shown on the future land use map or map series:

1. Existing and planned public potable waterwells and wellhead protection areas;

2. Beaches and shores, including estuarine systems;

3. Rivers, bays, lakes, flood plains, and harbors;

4. Wetlands;

5. Minerals and soils; and

6. Coastal high hazard areas.

(c) Mixed use categories of land use are encouraged. If used, policies for the implementation of such mixed uses shall be included in the comprehensive plan, including the types of land uses allowed, the percentage distribution among the mix of uses, or other objective measurement, and the density or intensity of each use.

(d) If determined by the local government to be appropriate, educational uses, public buildings and grounds, and other public facilities may be shown as one land use category on the future land use map or map series.

(e) If the local government has determined it necessary to utilize other categories of the public and private use of land, such categories of land use shall be shown on the future land use map or map series.

(f) The future land use map or map series of a county may also designate areas for possible future municipal incorporation.

(5) Review of Plans and Plan Amendments for Discouraging the Proliferation of Urban Sprawl.

(a) Purpose. The purpose of this subsection is to give guidance to local governments and other interested parties about how to make sure that plans and plan amendments are consistent with relevant provisions of the state comprehensive plan, regional policy plans, Chapter 163, Part II, F.S., and the remainder of this chapter regarding discouraging urban sprawl, including provisions concerning the efficiency of land use, the efficient provision of public facilities and services, the separation of urban and rural land uses, and the protection of agriculture and natural resources.

(b) Determination. The determination of whether a plan or plan amendment discourages the proliferation of urban sprawl shall be based upon the standards contained in this subsection.

(c) In general. The discouragement of urban sprawl accomplishes many related planning objectives. The purpose of this subsection is to provide a general methodology for examining whether or not a plan or plan amendment discourages the proliferation of urban sprawl. This subsection is organized into twelve paragraphs, paragraphs (5)(a) through (5)(l). Nothing in this paragraph (5) shall be interpreted to require that a local government submit information beyond the information required by other provisions of this chapter.

(d) Use of indicators. Paragraph (5)(g) describes those aspects or attributes of a plan or plan amendment which, when present, indicate that the plan or plan amendment may fail to discourage urban sprawl. For purposes of reviewing the plan for discouragement of urban sprawl, an evaluation shall be made whether any of these indicators is present in a plan or plan amendment. If an indicator is present, the extent, amount or frequency of that indicator shall be considered. The presence and potential effects of multiple indicators shall be considered to determine whether they collectively reflect a failure to discourage urban sprawl.

(e) Methodology for determining indicators. Paragraphs (5)(h) through (5)(j) describe the three major components of a methodology to determine the presence of urban sprawl indicators. Paragraph (5)(h) describes how land use aspects of a plan shall be analyzed. The land use element, including both the future land use map and associated objectives and policies, represents the focal point of the local government's planning effort. Paragraph (5)(i) describes the unique features and characteristics of each jurisdiction which provide the context of the analysis and which are needed to evaluate the extent, amount or frequency of an indicator and the significance of an indicator for a specific jurisdiction. Paragraph (5)(j) recognizes that land use plans generally may be significantly affected by other development policies in a plan which may serve to mitigate the presence of urban sprawl indicators based on the land use plan alone. Paragraph (5)(j) describes development controls which may be used by a local government to mitigate the presence of sprawl.

(f) Analysis components. subsection (5)(k) describes how the analysis components described in subsections (5)(h) through (5)(j) are combined in a systematic way to determine the presence of urban sprawl indicators.

(g) Primary indicators. The primary indicators that a plan or plan amendment does not discourage the proliferation of urban sprawl are listed below. The evaluation of the presence of these indicators shall consist of an analysis of the plan or plan amendment within the context of features and characteristics unique to each locality in order to determine whether the plan or plan amendment:

1. Promotes, allows or designates for development substantial areas of the jurisdiction to develop as low-intensity, low-density, or single-use development or uses in excess of demonstrated need.

2. Promotes, allows or designates significant amounts of urban development to occur in rural areas at substantial distances from existing urban areas while leaping over undeveloped lands which are available and suitable for development.

3. Promotes, allows or designates urban development in radial, strip, isolated or ribbon patterns generally emanating from existing urban developments.

4. As a result of premature or poorly planned conversion of rural land to other uses, fails adequately to protect and conserve natural resources, such as wetlands, floodplains, native vegetation, environmentally sensitive areas, natural groundwater aquifer recharge areas, lakes, rivers, shorelines, beaches, bays, estuarine systems, and other significant natural systems.

5. Fails adequately to protect adjacent agricultural areas and activities, including silviculture, and including active agricultural and silvicultural activities as well as passive agricultural activities and dormant, unique and prime farmlands and soils.

6. Fails to maximize use of existing public facilities and services.

7. Fails to maximize use of future public facilities and services.

8. Allows for land use patterns or timing which disproportionately increase the cost in time, money and energy, of providing and maintaining facilities and services, including roads, potable water, sanitary sewer, stormwater management, law enforcement, education, health care, fire and emergency response, and general government.

9. Fails to provide a clear separation between rural and urban uses.

10. Discourages or inhibits infill development or the redevelopment of existing neighborhoods and communities.

11. Fails to encourage an attractive and functional mix of uses.

12. Results in poor accessibility among linked or related land uses.

13. Results in the loss of significant amounts of functional open space.

(h) Evaluation of land uses. The comprehensive plan must be reviewed in its entirety to make the determinations in (5)(g) above. Plan amendments must be reviewed individually and for their impact on the remainder of the plan. However, in either case, a land use analysis will be the focus of the review and constitute the primary factor for making the determinations. Land use types cumulatively (within the entire jurisdiction and areas less than the entire jurisdiction, and in proximate areas outside the jurisdiction) will be evaluated based on density, intensity, distribution and functional relationship, including an analysis of the distribution of urban and rural land uses. Each land use type will be evaluated based on:

1. Extent.

2. Location.

3. Distribution.

4. Density.

5. Intensity.

6. Compatibility.

7. Suitability.

8. Functional relationship.

9. Land use combinations.

10. Demonstrated need over the planning period.

(i) Local conditions. Each of the land use factors in (5)(h) above will be evaluated within the context of features and characteristics unique to each locality. These include:

1. Size of developable area.

2. Projected growth rate (including population, commerce, industry, and agriculture).

3. Projected growth amounts (acres per land use category).

4. Facility availability (existing and committed).

5. Existing pattern of development (built and vested), including an analysis of the extent to which the existing pattern of

development reflects urban sprawl.

6. Projected growth trends over the planning period, including the change in the overall density or intensity of urban development throughout the jurisdiction.

7. Costs of facilities and services, such as per capita cost over the planning period in terms of resources and energy.

8. Extra-jurisdictional and regional growth characteristics.

9. Transportation networks and use characteristics (existing and committed).

10. Geography, topography and various natural features of the jurisdiction.

(j) Development controls. Development controls in the comprehensive plan may affect the determinations in (5)(g) above. The following development controls, to the extent they are included in the comprehensive plan, will be evaluated to determine how they discourage urban sprawl:

1. Open space requirements.

2. Development clustering requirements.

3. Other planning strategies, including the establishment of minimum development density and intensity, affecting the pattern and character of development.

4. Phasing of urban land use types, densities, intensities, extent, locations, and distribution over time, as measured through the permitted changes in land use within each urban land use category in the plan, and the timing and location of those changes.

5. Land use locational criteria related to the existing development pattern, natural resources and facilities and services.

6. Infrastructure extension controls, and infrastructure maximization requirements and incentives.

7. Allocation of the costs of future development based on the benefits received.

8. The extent to which new development pays for itself.

9. Transfer of development rights.

10. Purchase of development rights.

11. Planned unit development requirements.

12. Traditional neighborhood developments.

13. Land use functional relationship linkages and mixed land uses.

14. Jobs-to-housing balance requirements.

15. Policies specifying the circumstances under which future amendments could designate new lands for the urbanizing area.

16. Provision for new towns, rural villages or rural activity centers.

17. Effective functional buffering requirements.

18. Restriction on expansion of urban areas.

19. Planning strategies and incentives which promote the continuation of productive agricultural areas and the protection of environmentally sensitive lands.

20. Urban service areas.

21. Urban growth boundaries.

22. Access management controls.

(k) Evaluation of factors. Each of the land use types and land use combinations analyzed in paragraph (5)(h) above will be evaluated within the context of the features and characteristics of the locality, individually and together (as appropriate), as listed in paragraph (5)(i). If a local government has in place a comprehensive plan found in compliance, the Department shall not find a plan amendment to be not in compliance on the issue of discouraging urban sprawl solely because of preexisting indicators if the amendment does not exacerbate existing indicators of urban sprawl within the jurisdiction.

(l) Innovative and flexible planning and development strategies. Notwithstanding and as a means of addressing any provisions contained in subparagraphs 9J-5.006(3)(b)8., 9J-5.011(2)(b)3. and subsection 9J-5.003(140), F.A.C., and this subsection, the Department encourages innovative and flexible planning and development strategies and creative land use planning techniques in local plans. Planning strategies and techniques such as urban villages, new towns, satellite communities, area-based allocations, clustering and open space provisions, mixed-use development and sector planning that allow the conversion of rural and agricultural lands to other uses while protecting environmentally sensitive areas, maintaining the economic viability of agricultural and other predominantly rural land uses, and providing for the cost-efficient delivery of public facilities and services, will be recognized as methods of discouraging urban sprawl and will be determined consistent with the provisions of the state comprehensive plan, regional policy plans, Chapter 163, Part II, F.S., and this chapter regarding discouraging the proliferation of urban sprawl.

(6) Multimodal Transportation District. Multimodal transportation districts may be established by local option for areas for which the local government assigns priority for a safe, comfortable, and attractive pedestrian environment. The local government must establish community design standards for the district to reduce vehicle miles traveled and to support an integrated, multimodal transportation system that includes the elements for community design specified in Section 163.3180(15)(b), F.S.

Specific Authority 163.3177(9), (10), 163.3180(14) FS. Law Implemented 163.3177(1), (2), (4), (5), (6)(a), (d), (8), (9), (10), (11), 163.3178, 163.3180(13), (15) FS. History–New 3-6-86, Amended 10-20-86, 4-2-92, 3-23-94, 5-18-94, 3-21-99, 2-25-01.

9J-5.010 Housing Element.

The purpose of this element is to provide guidance to local governments to develop appropriate plans and policies to meet identified or projected deficits in the supply of housing for moderate income, low income, and very low income households, group homes, foster care facilities, and households with special housing needs, including rural and farmworker housing. These plans and policies shall address government activities as well as provide direction and assistance to the efforts of the private sector.

(1) Housing Element Data Requirements. The element shall be based upon the following data requirements pursuant to subsection 9J-5.005(2), F.A.C.

(a) An inventory taken from the latest decennial United States Census or more recent estimates, including the affordable housing needs assessment, when available, which shall include the number and distribution of dwelling units by type, tenure, age, rent, value, monthly cost of owner-occupied units, and rent or cost to income ratio.

(b) Each municipality shall compare those housing characteristics in paragraph (a) deemed significant by the municipality with those housing characteristics of its county.

(c) An inventory using data from the latest decennial United States Census, or more recent estimates, including the affordable housing needs assessment, showing the number of dwelling units that are substandard. Substandard units are those that fail to meet the applicable building code, the minimum housing code, or that lack complete plumbing; lack complete kitchen facilities; lack central heating; or are overcrowded. Local governments may determine that units without heating are not substandard if they are located in areas where the temperature extremes do not indicate heating as a life safety factor. The inventory shall include an estimate of the structural condition of housing within the local government's jurisdiction, by the number and generalized location of dwelling units in standard and substandard condition. The inventory shall also include the methodology used to estimate the condition of housing.

(d) An inventory of renter-occupied housing developments currently using federal, state or local subsidies. For each development listed, show the subsidy program, and number of units.

(e) An inventory of group homes licensed by the Florida Department of Children and Family Services, including the type, number, generalized location and capacity.

(f) An inventory of existing mobile home parks licensed by the Florida Department of Children and Family Services and mobile home condominiums, cooperatives and subdivisions including the generalized location and capacity.

(g) An inventory of historically significant housing listed on the Florida Master Site File, National Register of Historic Places or designated as historically significant by or in accordance with a local ordinance, and shall include their generalized locations.

(h) An inventory of the amount of housing construction activity affecting changes in the number of housing units within the local government's jurisdiction based on new construction, conversions, mobile home placements, and removals, in number of units for the years since the latest decennial United States Census.

(2) Housing Analysis Requirements. The element shall be based upon following analyses which support the comprehensive plan pursuant to subsection 9J-5.005(2), F.A.C.

(a) A projection of the anticipated number of households by size and income range derived from the population projections in paragraph 9J-5.005(2)(e), F.A.C.;

(b) The housing need of the current and anticipated future residents of the jurisdiction, including an affordable housing needs assessment, when available, and including separate estimates of need for rural and farmworker households, by number, type, cost or rent, tenure, and any other special housing needs, and shall include estimates for the replacement of housing units removed and for the maintenance of an adequate vacancy rate. Each local government shall utilize the data and analysis from the state land planning agency's affordable housing needs assessment as one basis for the housing element. The local government, at its option, may supplement the affordable housing needs assessment with locally generated data which more accurately assesses housing need for

very low- or low-income households;

(c) The land requirements for the total estimated housing need;

(d) The portion of the housing need which can be projected to be met by the private sector within current market conditions. The housing expected to be supplied shall be shown by type, tenure, cost or rent, and income range of households served;

(e) The existing housing delivery system, including the private sector housing delivery process, with regard to land, services, financing, regulations and administrative roles of government agencies to identify problems and opportunities affecting the capacity of such housing delivery system, with the objective of effecting improvements to that system to increase its efficiency in meeting the goals of this element; and

(f) Means for accomplishment of each of the following:

1. The provision of housing with supporting infrastructure for all current and anticipated future residents of the jurisdiction with particular emphasis on the creation or preservation of affordable housing to minimize the need for additional local services and avoid the concentration of affordable housing units only in specific areas of the jurisdiction;

2. The elimination of substandard housing conditions and for the structural and aesthetic improvement of housing;

3. The provision of adequate sites for housing for very-low-income, low-income and moderate-income households, and for mobile homes;

4. The provision of adequate sites in residential areas or areas of residential character for group homes and foster care facilities licensed or funded by the Florida Department of Children and Family Services; and

5. The identification of conservation, rehabilitation or demolition activities, and historically significant housing or neighborhoods.

(3) Requirements for Housing Goals, Objectives and Policies.

(a) The element shall contain one or more goal statements which establish the long-term end toward which housing programs and activities are ultimately directed.

(b) The element shall contain one or more specific objectives for each goal statement which address the requirements of paragraph 163.3177(6)(f), F.S., and which provide for:

1. The creation and/or preservation of affordable housing for all current and anticipated future residents of the jurisdiction, and households with special housing needs including rural and farmworker housing;

2. The elimination of substandard housing conditions, and for the structural and aesthetic improvement of existing housing;

3. Adequate sites and distribution of housing for very-low-income, low-income and moderate-income households, and adequate sites for mobile and manufactured homes;

4. Adequate sites in residential areas or areas of residential character for group homes and foster care facilities licensed or funded by the Florida Department of Children and Family Services;

5. The conservation, rehabilitation or demolition of housing, including the identification of historically significant housing;

6. Relocation housing; and

7. The formulation of housing implementation programs.

(c) The element shall contain one or more policies for each objective which address implementation activities for the:

1. Involvement, including partnerships, of local government with the private and non-profit sectors to improve coordination among participants involved in housing production;

2. Specific programs and actions to streamline the permitting process and minimize costs and delays for housing, especially affordable housing;

3. Establishment of standards addressing the quality of housing, stabilization of neighborhoods and identification and improvement of historically significant housing;

4. Establishment of principles to guide conservation, rehabilitation and demolition program techniques and strategies;

5. Establishment of principles and criteria guiding the location of housing for very-low-income, low-income and moderate-income households, mobile homes, manufactured homes, group homes and foster care facilities, and households with special housing needs including rural and farmworker households, and including supporting infrastructure and public facilities.

6. Establishment of principles and criteria consistent with Chapter 419, F.S., guiding the location of group homes and foster care facilities licensed or funded by the Florida Department of Children and Family Services that foster non-discrimination, and encourage the development of community residential alternatives to institutionalization including supporting infrastructure and public facilities;

7. Utilization of federal, state and local subsidy programs;

8. The utilization of job training, job creation and economic solutions to address a portion of their affordable housing concerns is an optional policy area encouraged by Section 163.3177(6)(f)1.g., F.S.;

9. Provision of relocation housing; and

10. Confirming current arrangements with other local governments concerning affordable housing. If it is not economically feasible to meet affordable housing needs within its jurisdiction because of unusually high property values within its jurisdiction, or if meeting that demand within its jurisdiction would require the direction of populations toward coastal high hazard areas, a local government may satisfy this criterion by having entered into an interlocal agreement with a nearby local government; and

11. Designating within its jurisdiction sufficient sites at sufficient densities to accommodate the need for affordable housing over the planning timeframe.

Specific Authority 163.3177(9), (10) FS. Law Implemented 163.3177(1), (5), (6)(f), (8), (9), (10), 163.3178 FS. History–New 3-6-86, Amended 10-20-86, 3-23-94, 5-18-94, 2-25-01.

9J-5.011 Sanitary Sewer, Solid Waste, Stormwater Management, Potable Water and Natural Groundwater Aquifer Recharge Element.

The purpose of this element is to provide for necessary public facilities and services correlated to future land use projections.

(1) Sanitary Sewer, Solid Waste, Stormwater Management, Potable Water, and Natural Groundwater Aquifer Recharge Element Data and Analysis Requirements. The element shall be based upon the following data and analyses requirements pursuant to subsection 9J-5.005(2), F.A.C.

(a) Each local government shall address in the data and analyses required by this subsection those facilities which provide service within the local government's jurisdiction.

(b) Local governments which provide facilities to serve areas within other local government jurisdictions shall also address those facilities in the data and analyses required by this subsection, using data from the comprehensive plan for those areas for the purpose of projecting facility needs as required in this subsection.

(c) For shared facilities, each local government shall indicate the proportional capacity of the systems allocated to serve its jurisdiction.

(d) Public and private sanitary sewer facilities, solid waste facilities, stormwater management, and potable water facilities, as defined in Rule 9J-5.003, F.A.C., shall be identified.

(e) The following data shall be included for the facilities identified above:

1. The entity having operational responsibility for the facility;

2. The geographic service area of the facility and the predominant types of land uses served by the facility;

3. The design capacity of the facility;

4. The current demand on the facility capacity; and

5. The level of service provided by the facility.

(f) Existing and projected sanitary sewer, solid waste, stormwater management and potable water facility needs shall be identified based on the following analyses:

1. A facility capacity analysis, by geographic service area, indicating capacity surpluses and deficiencies for:

a. Existing conditions, based on the facility design capacity and the current demand on the facility capacity;

b. The initial increment of the planning period, at least five years in length, based on the projected demand at current local level of service standards for the facility, resulting from development permitted by local government, the projected population, land use distributions as indicated in the future land use element, and available surplus capacity identified in the existing conditions capacity analysis; and

c. The remaining increment of the planning period, in the same manner as the initial incremental capacity analysis, using the appropriate projected population and future land use distributions for the increment and any available surplus capacity identified in the initial five-year incremental capacity analysis;

2. The general performance of existing facilities, based on best available data, evaluating the adequacy of the current level of service provided by facilities, the general condition and expected life of the facilities, and the impact of the facilities upon adjacent natural resources;

3. An analysis of the problems and opportunities for sanitary sewer, solid waste, stormwater management and potable water facilities replacement, expansion and new facility siting; and

4. An analysis of soil surveys for areas served by septic tanks and an explanation of suitability of those soils for such facilities shall be included, based upon best available data from the United States Department of Agriculture, Soil Conservation Service.

(g) Major natural drainage features and natural groundwater aquifer recharge areas within the local government's jurisdiction shall be identified and a topographic map if available shall be included depicting any areas adopted or identified by the regional water management district governing board as prime or high groundwater recharge areas.

(h) Existing regulations and programs which govern land use and development of natural drainage features and groundwater recharge areas, or portions thereof, shall be identified and assessed and the strengths and deficiencies in those regulations and programs in maintaining the functions of the natural drainage features and groundwater recharge areas shall be assessed.

(2) Requirements for Sanitary Sewer, Solid Waste, Stormwater Management, Potable Water, and Natural Groundwater Aquifer Recharge Goals, Objectives, and Policies.

(a) The element shall contain one or more goal statements for each of the facilities or resources addressed in this element which establish the long-term end toward which programs and activities are ultimately directed.

(b) The element shall contain one or more specific objectives for each goal statement for each of the facilities or resources addressed in the element which address the requirements of paragraph 163.3177(6)(c), F.S., and which:

1. Address correcting existing facility deficiencies;

2. Address coordinating the extension of, or increase in the capacity of, facilities to meet future needs;

3. Address maximizing the use of existing facilities and discouraging urban sprawl;

4. Address conserving potable water resources; and

5. Address protecting the functions of natural groundwater recharge areas and natural drainage features. High recharge and prime recharge areas shall receive a level of protection commensurate with their significance to natural systems or their status as current or future sources of potable water.

(c) The element shall contain one or more policies for each objective for each of the facilities or resources addressed in the element which address implementation activities for:

1. Establishing priorities for replacement, correcting existing facility deficiencies and providing for future facility needs;

2. Establishing and utilizing level of service standards provided by facilities as provided by subsection 9J-5.005(3) and subparagraph 9J-5.015(3)(b)3., F.A.C., of this chapter, such as:

a. Average and peak flow design capacity for sanitary sewer facilities;

b. Design capacity for solid waste facilities;

c. Design storm return frequency for stormwater facilities capacity;

d. Minimum design flow, storage capacity, and pressure for potable water facilities;

3. Establishing and utilizing potable water conservation strategies and techniques; and

4. Regulating land use and development to protect the functions of natural drainage features and natural groundwater aquifer recharge areas.

5. Establishing water quality standards for stormwater discharge.

a. Water quality standards for stormwater discharge shall be set for all new and existing stormwater management systems. These standards need not be the same for all systems. Local governments shall consider Chapter 17-40, F.A.C., in formulating water quality standards and may adopt by reference Chapter 62-25, F.A.C., as standards for water quality.

b. This chapter shall not be interpreted or applied to:

i. Mandate that local governments require existing facilities to be retrofitted to meet stormwater discharge water quality standards or stormwater management level of service standards.

ii. Eliminate any presumption provided by state or regional law or regulation that stormwater management systems which satisfy appropriate state or regional regulatory design and performance criteria also satisfy applicable stormwater discharge water quality standards.

iii. Prevent local governments from providing that compliance with adequate locally or regionally established level of service standards other than the design and performance criteria of Chapter 62-25, F.A.C., shall also be presumed to satisfy the stormwater discharge water quality standards.

iv. Prevent local governments from incorporating by reference stormwater management water quality standard exemptions to

the extent they appear in state or regional stormwater management water quality laws or regulations.

v. Mandate that local governments conduct water quality sampling or testing of stormwater discharge receiving waters to implement the standards described in this subsection.

Specific Authority 163.3177(9), (10) FS. Law Implemented 163.3177(1), (5), (6)(c), (8), (9), (10) FS. History–New 3-6-86, Amended 10-20-86, 5-18-94, 3-21-99.

9J-5.012 Coastal Management.

The purpose of this element is to plan for and where appropriate restrict development activities where such activities would damage or destroy coastal resources, and protect human life and limit public expenditures in areas that are subject to destruction by natural disaster.

(1) Local governments required by law to prepare a coastal management element are listed in the document entitled "Local Governments Required to Include Coastal Management Elements in their Comprehensive Plans," dated July 1, 1986, and available from the Department upon request. The local governments listed in the document and any other communities that incorporate subsequent to July 1, 1986, and meet the criteria in Section 380.24, F.S., shall include a coastal management element in their comprehensive plans.

(2) Coastal Management Data And Analysis Requirements. The element shall be based upon the following data and analyses requirements pursuant to subsection 9J-5.005(2), F.A.C.

(a) Existing land uses in the coastal planning area shall be inventoried. Conflicts among shoreline uses shall be analyzed and the need for water-dependent and water-related development sites shall be estimated. Any areas in need of redevelopment shall be identified. An analysis of the economic base of the coastal planning area based on the future land use element shall be included. A map or map series showing existing land uses and detailing existing water-dependent and water-related uses shall be prepared.

(b) Inventories and analyses of the effect of the future land uses as required to be shown on the future land use map or map series on the natural resources in the coastal planning area shall be prepared including: vegetative cover, including wetlands; areas subject to coastal flooding; wildlife habitats; and living marine resources. Maps shall be prepared of vegetative cover, wildlife habitat, areas subject to coastal flooding, and other areas of special concern to local government.

(c) An inventory and analysis of the impacts of development and redevelopment proposed in the future land use element on historic resources and sites in the coastal planning area shall be included along with a map of areas designated for historic preservation.

(d) An inventory and analysis shall be prepared of estuarine pollution conditions and actions needed to maintain estuaries including: an assessment of general estuarine conditions and identification of known existing point and non-point source pollution problems; an assessment of the impact of the development and redevelopment proposed in the future land use element and the impacts of facilities proposed in the traffic circulation and general sanitary sewer, solid waste, drainage, potable water, and natural groundwater aquifer recharge elements upon water quality, circulation patterns, and accumulation of contaminants in sediments; identification of actions needed to remedy existing pollution problems; and identification of existing state, regional and local regulatory programs which will be used to maintain or improve estuarine environmental quality.

(e) The following natural disaster planning concerns shall be inventoried or analyzed:

1. Hurricane evacuation planning based on the hurricane evacuation plan contained in the local peacetime emergency plan shall be analyzed and shall consider the hurricane vulnerability zone, the number of persons requiring evacuation, the number of persons requiring public hurricane shelter, the number of hurricane shelter spaces available, evacuation routes, transportation and hazard constraints on the evacuation routes, and evacuation times. The projected impact of the anticipated population density proposed in the future land use element and any special needs of the elderly, handicapped, hospitalized, or other special needs of the existing and anticipated populations on the above items shall be estimated. The analysis shall also consider measures that the local government could adopt to maintain or reduce hurricane evacuation times.

2. Post-disaster redevelopment including: existing and proposed land use in coastal high-hazard areas; structures with a history of repeated damage in coastal storms; coastal or shore protection structures; infrastructure in coastal high-hazard areas; and beach and dune conditions. Measures which could be used to reduce exposure to hazards shall be analyzed, including relocation, structural modification, and public acquisition.

3. Coastal high-hazard areas shall be identified and the infrastructure within the coastal high-hazard area shall be inventoried. The potential for relocating threatened infrastructure shall be analyzed.

(f) Beach and dune systems shall be inventoried and analyzed, including past trends in erosion and accretion, the effects upon the beaches or dunes of coastal or shore protection structures, and identification of existing and potential beach renourishment areas. The analysis shall also identify measures which could be used to protect or restore beaches or dunes.

(g) Public access facilities shall be inventoried, including: all public access points to the beach or shoreline through public lands, private property open to the general public, or other legal means; parking facilities for beach or shoreline access; coastal roads and facilities providing scenic overlooks; marinas; boat ramps; public docks; fishing piers; or other traditional shoreline fishing areas. The capacity of and need for the above facilities shall be analyzed. Public access facilities shall be shown on the map or map series required by paragraph (2)(a) as water-dependent uses or facilities. These inventories and analyses shall be coordinated with the recreation and open space element and any countywide marina siting plan if adopted by the local government.

(h) Existing infrastructure in the coastal planning area shall be inventoried, including: roadways, bridges or causeways, sanitary sewer facilities, potable water facilities, man-made drainage facilities, public coastal or shore protection structures, and beach renourishment projects. The demand upon, capacity of, and area served by the existing infrastructure shall be analyzed. Analyses shall be prepared which estimate future needs for those facilities listed above, and which shall address the fiscal impact in terms of estimated costs, funding sources and phasing of any needed improvements.

(3) Requirements for Coastal Management Goals, Objectives, and Policies.

(a) The coastal management element shall contain one or more goal statements which establish the long term end toward which regulatory and management efforts are directed. These shall reflect the stated intent of the Legislature in enacting Section 163.3178, F.S., which is that local governments in their comprehensive plans restrict development activities that would damage or destroy coastal resources, and protect human life and limit public expenditures in areas subject to destruction by natural disasters.

(b) The element shall contain one or more specific objectives for each goal statement which address the requirements of paragraph 163.3177(6)(g) and Section 163.3178, F.S., and which:

1. Protect, conserve, or enhance remaining coastal wetlands, living marine resources, coastal barriers, and wildlife habitat;

2. Maintain or improve estuarine environmental quality;

3. Provide criteria or standards for prioritizing shoreline uses, giving priority to water-dependent uses;

4. Protect beaches or dunes, establish construction standards which minimize the impacts of man-made structures on beach or dune systems, and restore altered beaches or dunes;

5. Limit public expenditures that subsidize development permitted in coastal high-hazard areas subsequent to the element's adoption except for restoration or enhancement of natural resources;

6. Direct population concentrations away from known or predicted coastal high-hazard areas;

7. Maintain or reduce hurricane evacuation times;

8. Prepare post-disaster redevelopment plans which will reduce or eliminate the exposure of human life and public and private property to natural hazards;

9. Increase the amount of public access to the beach or shorelines consistent with estimated public needs;

10. Provide for protection, preservation, or sensitive reuse of historic resources; and

11. Establish level of service standards, areas of service and phasing of infrastructure in the coastal planning area.

(c) The element shall contain one or more policies for each objective and shall identify regulatory or management techniques for:

1. Limiting the specific impacts and cumulative impacts of development or redevelopment upon wetlands, water quality, water quantity, wildlife habitat, living marine resources, and beach and dune systems;

2. Restoration or enhancement of disturbed or degraded natural resources including beaches and dunes, estuaries, wetlands, and drainage systems; and programs to mitigate future disruptions or degradations;

3. General hazard mitigation including regulation of building practices, floodplains, beach and dune alteration, stormwater management, sanitary sewer and septic tanks, and land use to reduce the exposure of human life and public and private property to natural hazards; and incorporating the recommendations of the hazard mitigation annex of the local peacetime emergency plan and applicable existing interagency hazard mitigation reports. Incorporating recommendations from interagency hazard mitigation reports shall be at the discretion of the local government;

4. Hurricane evacuation including methods to relieve deficiencies identified in the hurricane evacuation analysis, and procedures for integration into the regional or local evacuation plan;

5. Post-disaster redevelopment including policies to: distinguish between immediate repair and cleanup actions needed to

protect public health and safety and long-term repair and redevelopment activities; address the removal, relocation, or structural modification of damaged infrastructure as determined appropriate by the local government but consistent with federal funding provisions and unsafe structures; limiting redevelopment in areas of repeated damage; and, policies for incorporating the recommendations of interagency hazard mitigation reports, as deemed appropriate by the local government, into the local government's comprehensive plan when the plan is revised during the evaluation and appraisal process;

6. Identifying areas needing redevelopment, including eliminating unsafe conditions and inappropriate uses as opportunities arise;

7. Designating coastal high-hazard areas and limiting development in these areas;

8. The relocation, mitigation or replacement, as deemed appropriate by the local government, of infrastructure presently within the coastal high-hazard area when state funding is anticipated to be needed.

9. Establishing priorities for shoreline land uses, providing for siting water-dependent and water-related uses, establishing performance standards for shoreline development, and establishing criteria for marina siting, including criteria consistent with the countywide marina siting plan if adopted by the local government, which address: land use compatibility, availability of upland support services, existing protective status or ownership, hurricane contingency planning, protection of water quality, water depth, environmental disruptions and mitigation actions, availability for public use, and economic need and feasibility;

10. Providing, continuing, and replacing adequate physical public access to beaches and shorelines; enforcing public access to beaches renourished at public expense; enforcing the public access requirements of the Coastal Zone Protection Act of 1985; and providing transportation or parking facilities for beach and shoreline access;

11. Historic resource protection, including historic site identification and establishing performance standards for development and sensitive reuse of historic resources;

12. The orderly development and use of deepwater ports, if applicable, including how the local government shall cooperate with the deepwater port to resolve problems in transportation, land use, natural and man-made hazards, and protection of natural resources. Include a procedure to resolve inconsistencies between the local government comprehensive plan and the deepwater port master plan through the dispute resolution process as provided under Section 186.509, F.S., which is to be utilized in the event the local government and a deepwater port are unable to resolve the inconsistencies;

13. Ensuring that required infrastructure is available to serve the development or redevelopment in the coastal planning area at the densities proposed by the future land use plan, consistent with coastal resource protection and safe evacuation, by assuring that funding for infrastructure will be phased to coincide with the demands generated by development or redevelopment;

14. Protecting estuaries which are within the jurisdiction of more than one local government, including methods for coordinating with other local governments to ensure adequate sites for water-dependent uses, prevent estuarine pollution, control surface water runoff, protect living marine resources, reduce exposure to natural hazards, and ensure public access; and

15. Demonstrating how the local government will coordinate with existing resource protection plans such as resource planning and management plans, aquatic preserve management plans, and estuarine sanctuary plans.

(4) Local governments within the coastal area that participate in a countywide marina siting plan shall include the marina siting plan as part of this element.

(5) Port Master Plans for Deepwater Ports. A port master plan shall be prepared by or for each deepwater port for the purposes of coordinating the activities of the port with the plans of the appropriate local government; determination of compliance does not imply conceptual approval by the State for permitting purposes.

(a) Deepwater ports shall prepare a port master plan and submit it to the appropriate local government for incorporation as a part of the coastal management element at least six months prior to the due date of the local government's comprehensive plan established pursuant to law. This port master plan shall be incorporated as a part of the coastal management element, and be consistent with the goals, objectives, and policies of the coastal management element. The port master plan of a deepwater port, as it appears in the coastal management element, shall be reviewed for compliance with the criteria below. Failure of a deepwater port which is not a part of the local government to submit a deepwater port master plan shall not cause the local government to be subject to the sanctions in Section 163.3184 or 163.3167, F.S., nor cause the regional planning council to prepare the missing port master plan. In this case the deepwater port shall not have its in-water facilities exempted from the provisions of Section 380.06, F.S., and the port shall be subject to the sanctions in Sections 163.3184 and 163.3167, F.S. The failure of a deepwater port which is an agency of a local government to prepare a deepwater port master plan may result in the sanctions in Section 163.3184, F.S., being applied and the missing deepwater port master plan being prepared by the regional planning council. Regardless of whether a deepwater port

has prepared a port master plan, any port development shall be consistent with the goals, objectives and policies of the coastal management element of the jurisdiction in which the development occurs.

(b) Inventories and Analyses. The deepwater port shall prepare all applicable inventories and analyses listed in subsection (2) for the areas they own or administer. Furthermore, the deepwater port shall inventory and analyze: landside transportation needed to support the deepwater port, in-water facilities, maintenance of in-water facilities, management of dredged material, hazardous material handling and cleanup, and handling and cleanup of petroleum products. In addition, the deepwater port shall prepare a map showing the location and boundaries of port owned or administered lands.

(c) Goals, Objectives, and Policies. The deepwater port shall develop goals, objectives, and policies to address the applicable issues listed in subsection (3). The goals, objectives, and policies shall be consistent with the goals adopted in the remainder of the coastal management element.

(d) Port Maintenance and Expansion. The deepwater port shall set forth its plans for future port expansion for an initial five-year period and in-water facility maintenance for at least a ten-year period, and these plans shall show the economic assumptions used, the foreseeable changes in shipping technologies and port operations, the estimates of types and volumes of commodities to be handled, the needed expansions to in-water and on-land facilities, and the infrastructure required. The plan shall set forth requirements for maintaining in-water facilities and for the management of dredged material from both maintenance and expansion. The plan shall assess the impact of port expansion and maintenance on wetlands, beaches and dunes, submerged lands, floodplains, wildlife habitat, living marine resources, water quality, water quantity, public access, historic resources, and the land use and infrastructure of adjacent areas.

(e) Port Master Plan Integration into the Coastal Management Element. If a port master plan is prepared by a deepwater port, then the appropriate local government shall include the port master plan's goals, objectives, and policies and port maintenance and expansion sections in the coastal management element of its comprehensive plan. The data and analyses shall be summarized as required in subsection 9J-5.012(2), F.A.C., and shall be submitted in support of the comprehensive plan.

Specific Authority 163.3177(9), (10) FS. Law Implemented 163.3177(1), (5), (6)(g), (8), (9), (10), 163.3178 FS. History–New 3-6-86, Amended 10-20-86, 3-23-94.

9J-5.013 Conservation Element.

The purpose of the conservation element is to promote the conservation, use and protection of natural resources.

(1) Conservation Data and Analysis Requirements. The element shall be based upon the following data and analyses requirements pursuant to subsection 9J-5.005(2), F.A.C.

(a) The following natural resources, where present within the local government's boundaries, shall be identified and analyzed:

1. Rivers, bays, lakes, wetlands including estuarine marshes, groundwaters and air, including information on quality of the resource available from and classified by the Florida Department of Environmental Regulation;

2. Floodplains;

3. Known sources of commercially valuable minerals;

4. Areas known by the local soil and water conservation district to have experienced soil erosion problems; and

5. Areas which are the location of recreationally and commercially important fish or shellfish, wildlife, marine habitats, and vegetative communities including forests, indicating known dominant species present and species listed by federal, state, or local government agencies as endangered, threatened or species of special concern.

(b) For each of the above natural resources, existing commercial, recreational or conservation uses, known pollution problems including hazardous wastes and the potential for conservation, use or protection shall be identified.

(c) Current and projected water needs and sources for the next ten-year period based on the demands for industrial, agricultural, and potable water use and the quality and quantity of water available to meet these demands shall be analyzed. The analysis shall consider existing levels of water conservation, use and protection and applicable policies of the regional water management district.

(2) Requirements for Conservation Goals, Objectives and Policies.

(a) The element shall contain one or more goal statements which establish the long-term end toward which conservation programs and activities are ultimately directed.

(b) The element shall contain one or more specific objectives for each goal statement which address the requirements of paragraph 163.3177(6)(d), F.S., and which:

1. Protect air quality;

2. Conserve, appropriately use and protect the quality and quantity of current and projected water sources and waters that flow into estuarine waters or oceanic waters;

3. Conserve, appropriately use and protect minerals, soils and native vegetative communities including forests; and

4. Conserve, appropriately use and protect fisheries, wildlife, wildlife habitat and marine habitat.

(c) The element shall contain one or more policies for each objective which address implementation activities for the:

1. Protection of water quality by restriction of activities and land uses known to affect adversely the quality and quantity of identified water sources, including natural groundwater recharge areas, wellhead protection areas and surface waters used as a source of public water supply;

2. Conservation, appropriate use and protection of areas suitable for extraction of minerals;

3. Protection of native vegetative communities from destruction by development activities;

4. Emergency conservation of water sources in accordance with the plans of the regional water management district;

5. Restriction of activities known to adversely affect the survival of endangered and threatened wildlife;

6. Protection and conservation of the natural functions of existing soils, fisheries, wildlife habitats, rivers, bays, lakes, floodplains, harbors, wetlands including estuarine marshes, freshwater beaches and shores, and marine habitats;

7. Protection of existing natural reservations identified in the recreation and open space element;

8. Continuing cooperation with adjacent local governments to conserve, appropriately use, or protect unique vegetative communities located within more than one local jurisdiction;

9. Designation of environmentally sensitive lands for protection based on locally determined criteria which further the goals and objectives of the conservation element; and

10. Management of hazardous wastes to protect natural resources.

(3) Policies Addressing the Protection and Conservation of Wetlands.

(a) Wetlands and the natural functions of wetlands shall be protected and conserved. The adequate and appropriate protection and conservation of wetlands shall be accomplished through a comprehensive planning process which includes consideration of the types, values, functions, sizes, conditions and locations of wetlands, and which is based on supporting data and analysis.

(b) Future land uses which are incompatible with the protection and conservation of wetlands and wetland functions shall be directed away from wetlands. The type, intensity or density, extent, distribution and location of allowable land uses and the types, values, functions, sizes, conditions and locations of wetlands are land use factors which shall be considered when directing incompatible land uses away from wetlands. Land uses shall be distributed in a manner that minimizes the effect and impact on wetlands. The protection and conservation of wetlands by the direction of incompatible land uses away from wetlands shall occur in combination with other goals, objectives and policies in the comprehensive plan. Where incompatible land uses are allowed to occur, mitigation shall be considered as one means to compensate for loss of wetlands functions.

Specific Authority 163.3177(9), (10) FS. Law Implemented 163.3177, 163.3178 FS. History–New 3-6-86, Amended 10-20-86, 5-18-94.

9J-5.015 Intergovernmental Coordination Element.

It is the purpose of the intergovernmental coordination element to identify and resolve incompatible goals, objectives, policies and development proposed in local government comprehensive plans and to determine and respond to the needs for coordination processes and procedures with adjacent local governments, and regional and state agencies. Intergovernmental coordination shall be utilized to the extent required to carry out the provisions of this chapter.

(1) Intergovernmental Coordination Data Requirements. The element shall be based upon the following data pursuant to subsection 9J-5.005(2), F.A.C. The area of concern for municipalities shall include adjacent municipalities, the county, and counties adjacent to the municipality. The area of concern for counties shall include all municipalities within the county, adjacent counties, and adjacent municipalities.

(a) All adjacent governments, school boards and other units of local government providing services but not having regulatory authority over the use of land, independent special districts, water management districts, regional planning agencies, and state agencies with which the local government coordinates shall be inventoried. This inventory shall also include regional or state agencies with land use or environmental regulatory authority, and authorities, independent special districts, and utility companies, which provide services within the local jurisdiction.

(b) For each entity listed in paragraph (1)(a), the element shall briefly describe the existing coordination mechanisms indicating the subject, the nature of the relationship and the office with primary responsibility for coordination.

(2) Intergovernmental Coordination Analysis Requirements. The element shall be based upon the following analyses requirements which support the comprehensive plan pursuant to subsection 9J-5.005(2), F.A.C.

(a) The effectiveness of existing coordination mechanisms described in paragraph (1)(b), such as intergovernmental agreements, joint planning and service agreements, special legislation and joint meetings or work groups which are used to further intergovernmental coordination;

(b) Specific problems and needs within each of the comprehensive plan elements which would benefit from improved or additional intergovernmental coordination and means for resolving those problems and needs;

(c) Growth and development proposed in comprehensive plans in the area of concern and a comparison with the appropriate comprehensive regional policy plan in order to evaluate the needs for additional planning coordination; and

(d) The comprehensive plan's coordination with the rules, principles for guiding development, and development regulations in any designated area of critical state concern falling partially or wholly within the local government's jurisdiction.

(3) Requirements for Intergovernmental Coordination Goals, Objectives, and Policies.

(a) The element shall contain one or more goal statements which establish the long-term end toward which intergovernmental coordination activities are ultimately directed.

(b) The element shall contain one or more specific objectives for each goal statement, which address the requirements of paragraph 163.3177(6)(h), F.S., and which:

1. Coordinate the comprehensive plan with the plans of school boards, other units of local government providing services but not having regulatory authority over the use of land, and with the comprehensive plans of adjacent municipalities, the county, and adjacent counties;

2. Ensure that the local government addresses through coordination mechanisms the impacts of development proposed in the local comprehensive plan upon development in adjacent municipalities, the county, adjacent counties, the region and in the state;

3. Ensure coordination in establishing level of service standards for public facilities with any state, regional or local entity having operational and maintenance responsibility for such facilities; and

4. Ensure coordination in the designation of new dredge spoil disposal sites for counties and municipalities located in the coastal area having spoil disposal responsibilities.

5. Ensure adoption of interlocal agreements within one year of adoption of the amended intergovernmental coordination element, pursuant to the requirements of Section 163.3177(6)(h)2., F.S.

6. Ensure intergovernmental coordination between all affected local governments and the school board as specified in Section 163.3180(13)(f), F.S., for the purpose of establishing concurrency requirements for public school facilities, if imposed by local option.

(c) The element shall contain one or more policies for each objective which address programs, activities, or procedures for:

1. The coordination of planning activities mandated by the various elements of the comprehensive plan with other local governments, school boards, other units of local government providing services but not having regulatory authority over the use of land, the region, and the state;

2. Resolving conflicts with other local governments through the regional planning council's informal mediation process;

3. The provision of services and information;

4. Provide procedures to identify and implement joint planning areas for the purposes of annexation, municipal incorporation and joint infrastructure service areas;

5. Reviewing the relationship of proposed development of the area to the existing comprehensive plans of adjacent local governments;

6. Consistent and coordinated management of certain bays, estuaries and harbors that fall under the jurisdiction of more than one local government in the case of local governments required to prepare a coastal management element;

7. The review of development proposed in the comprehensive plan including a policy statement indicating relationships of the proposed development to the existing comprehensive plans of adjacent local governments;

8. Involving the navigation and inlet districts and other appropriate state and federal agencies and the public in providing for or identifying dredge spoil disposal sites for the counties and municipalities in the coastal area with spoil disposal responsibilities;

9. Resolving conflicts between a coastal local government and a public agency seeking a dredge spoil disposal site through the

Coastal Resources Interagency Management Committee's dispute resolution process;

10. Recognition of campus master plans prepared pursuant to Section 240.155, F.S., and procedures for coordination of the provisions of the campus master development agreement;

11. Establish joint processes for collaborative planning and decision-making with other units of local governments providing facilities and services but not having regulatory authority over the use of land on population projections and the location and extension of public facilities subject to concurrency;

12. Establish joint processes for collaborative planning and decision-making with the school board on population projections and the siting of public school facilities;

13. Establish joint processes for the siting of facilities with county-wide significance, including locally unwanted land uses, such as solid waste disposal facilities; and

14. If imposed by local option, the adoption of an interlocal agreement for school concurrency as specified in Section 163.3180(13)(g), F.S.

Specific Authority 163.3177(9), (10) FS. Law Implemented 163.3177(1), (4), (5), (6)(h), (8), (9), (10), 163.3180(13) FS. History–New 3-6-86, Amended 10-20-86, 3-23-94, 3-21-99, 2-25-01.

9J-5.016 Capital Improvements Element.

The purpose of the capital improvements element is to evaluate the need for public facilities as identified in the other comprehensive plan elements and as defined in the applicable definitions for each type of public facility, to estimate the cost of improvements for which the local government has fiscal responsibility, to analyze the fiscal capability of the local government to finance and construct improvements, to adopt financial policies to guide the funding of improvements and to schedule the funding and construction of improvements in a manner necessary to ensure that capital improvements are provided when required based on needs identified in the other comprehensive plan elements. The element shall also include the requirements to ensure that an adequate concurrency management system will be implemented by local governments pursuant to Rule 9J-5.0055, F.A.C., of this chapter.

(1) Capital Improvements Data Requirements. The element shall be based upon the following data requirements pursuant to subsection 9J-5.005(2), F.A.C.

(a) The element shall be based on the public facility needs as identified in the other comprehensive plan elements and shall support the future land use element. Transportation facilities include facilities identified as existing or projected needs in any of the following elements: traffic circulation; mass transit; and port, aviation and related facilities.

(b) The geographic service area and location of major system components for the public education and public health systems within the local government's jurisdiction shall be identified.

(c) Existing revenue sources and funding mechanisms available for capital improvement financing, such as ad valorem taxes, bonds, state funds, federal funds, gas taxes and impact fees shall be inventoried.

(2) Capital Improvements Analysis Requirements. The element shall be based upon the following analyses which support the comprehensive plan pursuant to subsection 9J-5.005(2), F.A.C.

(a) Current local practices that guide the timing and location of construction, extension or increases in capacity of each public facility;

(b) The general fiscal implications of the existing deficiencies and future needs for each type of public facility. This analysis shall be based on the needed improvements, as identified in the other local government comprehensive plan elements, and shall address the relative priority of need among facility types, and shall support the future land use element;

(c) The costs of needed capital improvements for mitigation of existing deficiencies, replacement and new growth needs pursuant to the future land use element and shall explain the basis of cost estimates;

(d) The impact of new or improved public educational and public health care systems and facilities on the provision of infrastructure;

(e) The use of timing and location of capital improvements to public facilities to support efficient land development and goals, objectives, and policies in the future land use element. This analysis must take into consideration plans of state agencies and water management districts that provide public facilities within the local government jurisdiction; and

(f) An assessment of the local government's ability to finance capital improvements based upon anticipated population and revenues including:

1. Forecasting of revenues and expenditures for five years;

2. Projections of debt service obligations for currently outstanding bond issues;

3. Projection of ad valorem tax base, assessment ratio and millage rate;

4. Projections of other tax bases and other revenue sources such as impact and user fees;

5. Projection of operating cost considerations; and

6. Projection of debt capacity.

(3) Requirements for Capital Improvements Goals, Objectives, and Policies.

(a) The element shall contain one or more goal statements which establish the long-term end for the timely and efficient provision of public facilities through the use of sound fiscal policies.

(b) The element shall contain one or more objectives for each goal and shall address:

1. The use of the capital improvements element as a means to meet the needs of the local government for the construction of capital facilities necessary to meet existing deficiencies, to accommodate desired future growth and to replace obsolete or worn-out facilities;

2. The limitation of public expenditures that subsidize development in high hazard coastal areas;

3. The coordination of land use decisions and available or projected fiscal resources with a schedule of capital improvements which maintains adopted level of service standards and meets the existing and future facility needs;

4. The extent to which future development will bear a proportionate cost of facility improvements necessitated by the development in order to adequately maintain adopted level of service standards; and

5. The demonstration of the local government's ability to provide or require provision of the needed improvements identified in the other local government comprehensive plan elements and to manage the land development process so that public facility needs created by previously issued development orders or future development do not exceed the ability of the local government to fund and provide or require provision of the needed capital improvements.

(c) The element shall contain one or more policies for each objective which address programs and activities for:

1. The establishment of criteria used to evaluate local capital improvement projects. Such criteria shall be directly related to the individual elements of the comprehensive plan and shall include consideration of:

a. The elimination of public hazards;

b. The elimination of existing capacity deficits;

c. Local budget impact;

d. Locational needs based on projected growth patterns;

e. The accommodation of new development and redevelopment facility demands;

f. Financial feasibility; and

g. Plans of state agencies and water management districts that provide public facilities within the local government's jurisdiction;

2. The management of debt, such as:

a. The limitation on the use of revenue bonds as a percent of total debt;

b. The maximum ratio of total debt service to total revenue; and

c. The maximum ratio of outstanding capital indebtedness to property tax base;

3. The establishment of policies for the replacement and renewal of capital facilities;

4. The establishment of level of service standards for public facilities which are within the local government's jurisdiction, as provided by subsection 9J-5.005(3), F.A.C., and subparagraph 9J-5.015(3)(b)3., F.A.C., of this chapter. These standards shall be those found in the other local government comprehensive plan elements;

5. Provisions for the availability of public facilities to serve developments for which development orders were issued prior to the adoption of the comprehensive plan;

6. Provisions for the availability of public facilities and services needed to support development concurrent with the impacts of such development subsequent to the adoption of the local comprehensive plan. 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 local government to operate the facilities necessitated by that development, are available concurrent with the impacts of the development;

7. Provisions for the adoption of a capital budget as a part of the annual budgeting process;

8. Assessing new developments a pro rata share of the costs necessary to finance public facility improvements necessitated by

development in order to adequately maintain adopted level of service standards; and

9. The use of local government fiscal policies to direct expenditures for capital improvements which recognize the policies of the other comprehensive plan elements.

(4) Requirements for Capital Improvements Implementation.

(a) The comprehensive plan shall contain:

1. The schedule of capital improvements, for which the local government has fiscal responsibility, selected for the first five fiscal years, by year, after the adoption of the comprehensive plan, which shall reflect the need to reduce existing deficiencies, remain abreast of replacements, and to meet future demand including:

a. Project description and general location; and

b. Determination of consistency with individual comprehensive plan elements.

2. A list of projected costs and revenue sources by type of public facility for the five year period. Only for the purpose of determining the financial feasibility of the capital improvements element, projected revenue sources may include a local government's present intent to increase the level or amount of a revenue source which is contingent on ratification by public referendum. If the local government utilizes these projected revenue sources for planning purposes, the local government is encouraged to include in the plan policies which identify alternatives and actions to be undertaken should the referendum fail. If a local government utilizes projected revenue sources which require a referendum and the plan does not include policies to identify alternatives and actions to be taken if the referendum fails, the plan must include a policy that the local government will amend the plan to include policies to identify alternative funding sources or other actions should the referendum fail. However, for the purpose of issuing development orders and permits, the local government must have a concurrency management system which meets the requirements of subsection 9J-5.0055(2), F.A.C., of this chapter.

3. If imposed by local option for school concurrency, a five year financially feasible public school facilities program established in conjunction with the local school board that demonstrates the adopted level of service standards will be achieved and maintained.

4. A schedule of capital improvements for multimodal transportation districts, if locally established, required to promote the community design features for the district that are financially feasible over the development or redevelopment time-frame of the district as specified in Section 163.3180(15)(c), F.S. Financial feasibility shall be based on currently available funding or funding sources that could reasonably be expected to become available over the planning period of the district.

(b) The plan shall identify those programs to be adopted which will ensure that the goals, objectives and policies established in the capital improvements element are met or exceeded. These programs shall include provisions that facilities and services at least meet the standards established and are available concurrent with the impacts of development. At a minimum the programs related to concurrency shall meet the requirements of Rule 9J-5.0055, F.A.C., of this chapter.

(5) Requirements for Monitoring and Evaluation. In addition to the general monitoring and evaluation requirements in this chapter, this element shall be reviewed on an annual basis.

Specific Authority 163.3177(9), (10) FS. Law Implemented 163.3177(1), (3), (5), (8), (9), (10), 163.3180(10), (13) FS. History–New 3-6-86, Amended 10-20-86, 11-22-89, 4-2-92, 3-23-94, 2-25-01.

9J-5.019 Transportation Element.

(1) APPLICATION AND PURPOSE. A local government which has all or part of its jurisdiction included within the urban area of a Metropolitan Planning Organization (MPO) pursuant to Section 339.175, F.S., shall prepare and adopt a transportation element consistent with the provisions of this Rule and Chapter 163, Part II, F.S. Local governments that are not located within the urban area of a MPO shall adopt traffic circulation, mass transit, and ports, aviation and related facilities elements consistent with the provisions of this rule and Chapter 163, Part II, F.S., except that local governments with a population of 50,000 or less, as determined under Section 186.901, F.S., shall not be required to prepare mass transit or ports, aviation and related facilities elements. Within a designated MPO area, the transportation elements of the local plans shall be coordinated with the long range transportation plan of the MPO. The purpose of the transportation element shall be to plan for a multimodal transportation system that places emphasis on public transportation systems.

(2) EXISTING TRANSPORTATION DATA REQUIREMENTS. The element shall be based upon the following data requirements pursuant to subsection 9J-5.005(2), F.A.C., of this chapter.

(a) The general location of the following transportation system features shall be shown on an existing transportation map or map

series:

1. Road System:

a. Collector roads;

b. Arterial roads;

c. Limited and controlled access facilities;

d. Significant Parking facilities, as determined by the local government.

2. Public Transit System:

a. Public transit routes or service areas;

b. Public transit terminals and transfer stations;

c. Public transit rights-of-way and exclusive public transit corridors;

3. Significant bicycle and pedestrian ways, as determined by the local government;

4. Port facilities;

5. Airport facilities including clear zones and obstructions;

6. Freight and passenger rail lines and terminals; and

7. Intermodal terminals and access to intermodal facilities.

8. The existing functional classification and maintenance responsibility for all roads;

9. The number of through lanes for each roadway;

10. The major public transit trip generators and attractors based upon the existing land use map or map series;

11. Designated local and regional transportation facilities, critical to the evacuation of the coastal population prior to an impending natural disaster.

(b) The existing transportation map or map series shall identify the following:

1. Existing peak hour, peak direction levels of service for roads and mass transit facilities and corridors or routes; and

2. Capacity of significant parking facilities and duration limitations (long-term or short-term), where applicable.

(3) TRANSPORTATION ANALYSIS REQUIREMENTS. The element shall be based upon the following analyses which address all modes of transportation and support the comprehensive plan pursuant to subsection 9J-5.005(2), F.A.C.

(a) An analysis of the existing transportation system levels of service and system needs based upon existing design and operating capacities; most recently available estimates for average daily and peak hour vehicle trips; existing modal split and vehicle occupancy rates; existing public transit facilities, including ridership by route, peak hour capacities and headways; population characteristics, including transportation disadvantaged; and the existing characteristics of the major trip generators and attractors within the community.

(b) An analysis of the availability of transportation facilities and services to serve existing land uses.

(c) An analysis of the adequacy of the existing and projected transportation system to evacuate the coastal population prior to an impending natural disaster.

(d) An analysis of the growth trends and travel patterns and interactions between land use and transportation, and the compatibility between the future land use and transportation elements, including land use compatibility around airports.

(e) An analysis of existing and projected intermodal deficiencies and needs such as terminals, connections, high occupancy vehicle lanes, park-and-ride lots and other facilities.

(f) An analysis of the projected transportation system levels of service and system needs based upon the future land use categories, including their densities or intensities of use as shown on the future land use map or map series, and the projected integrated transportation system. The analysis shall demonstrate integration and coordination among the various modes of transportation, including rail, airport and seaport facilities. The analysis shall address the need for new facilities and expansions of alternative transportation modes to provide a safe and efficient transportation network and enhance mobility. The methodologies used in the analysis, including the assumptions used, modeling applications, and alternatives considered shall be included in the plan support document. The analysis shall address the effect of transportation concurrency management areas, if any pursuant to subsection 9J-5.0055(5), F.A.C., and the effect of transportation concurrency exceptions, if any, pursuant to subsections 9J-5.0055(6) and (7), F.A.C.

(g) The analysis shall consider the projects planned for in the Florida Department of Transportation's Adopted Work Program, long range transportation plan and transportation improvement program of the metropolitan planning organization, and the local transportation authority(ies), if any, and compatibility with the policies and guidelines of such plans.

(h) The analysis shall demonstrate how the local government will maintain its adopted level of service standards for roads and transit facilities within its jurisdiction and how the level of service standards reflect and advance the purpose of this section and the goals, objectives, and policies of the future land use element and other elements of the comprehensive plan.

(i) The analysis shall explicitly address and document the internal consistency of the plan, especially its provisions addressing transportation, land use, and availability of facilities and services.

(j) An analysis which identifies land uses and transportation management programs necessary to promote and support public transportation systems in designated public transportation corridors.

(k) For multimodal transportation districts established pursuant to Sections 163.3180(15)(a) and (b), F.S., an analysis demonstrating that the proposed community design elements, including the transportation system and the land use distribution, densities and intensities, will reduce vehicle miles of travel and support an integrated, multimodal transportation system that achieves the objectives of the paragraphs cited above.

(4) REQUIREMENTS FOR TRANSPORTATION GOALS, OBJECTIVES AND POLICIES.

(a) The element shall contain one or more goal statements which establish the long-term end toward which transportation programs and activities are ultimately directed.

(b) The element shall contain one or more specific objectives for each goal statement which address the requirements of subsections 163.3177(6)(b), (6)(j), (7)(a), and (7)(b), F.S., and which:

1. Provide for a safe, convenient, and energy efficient multimodal transportation system;

2. Coordinate the transportation system with the future land use map or map series and ensure that existing and proposed population densities, housing and employment patterns, and land uses are consistent with the transportation modes and services proposed to serve these areas;

3. Coordinate the transportation system with the plans and programs of any applicable metropolitan planning organization, transportation authority, Florida Transportation Plan and Florida Department of Transportation's Adopted Work Program;

4. Address the provision of efficient public transit services based upon existing and proposed major trip generators and attractors, safe and convenient public transit terminals, land uses and accommodation of the special needs of the transportation disadvantaged;

5. Provide for the protection of existing and future rights-of-way from building encroachment;

6. Coordinate the siting of new, or expansion of existing, ports, airports, or related facilities with the future land use, coastal management, and conservation elements;

7. Coordinate the surface transportation access to ports, airports, or related facilities with the traffic circulation system shown on the traffic circulation maps or map series;

8. Coordinate with any ports, airports, or related facilities plans of the appropriate ports, airports or related facilities provider, United States Army Corps of Engineers, Federal Aviation Administration, metropolitan planning organization, military services, or resource planning and management plan prepared pursuant to Chapter 380, F.S., and approved by the Governor and Cabinet, the Florida Department of Transportation 5-Year Transportation Plan, and the Continuing Florida Aviation System Planning Process as adopted; and

9. Ensure that access routes to ports, airports, or related facilities are properly integrated with other modes of surface or water transportation.

10. For multimodal transportation districts established pursuant to Sections 163.3180(15)(a) and (b), F.S., provide for a safe, comfortable and attractive pedestrian environment with convenient interconnection to public transportation.

(c) The element shall contain one or more policies for each objective which address implementation activities for the:

1. Establishment of level of service standards at peak hour for roads and public transit facilities within the local government's jurisdiction. For facilities on the Florida Intrastate Highway System as defined in Section 338.001, F.S., the local governments shall adopt the level of service standards established by the Department of Transportation by rule. With the concurrence of the Department of Transportation, a local government may establish level of service standards for general lanes in urbanized areas as specified in Section 163.3180(10), F.S. For all other facilities on the future traffic circulation map, local governments shall adopt adequate level of service standards. These level of service standards shall be adopted to ensure that adequate facility capacity will be provided to serve the existing and future land uses as demonstrated by the supporting data and analysis in the comprehensive plan;

2. Control of the connections and access points of driveways and roads to roadways;

3. Establishment of parking strategies that will promote transportation goals and objectives;

4. For existing or future transportation rights-of-way and corridors designated in the local government comprehensive plan, establish measures for their acquisition, preservation, or protection;

5. Establishment of land use and other strategies to promote the use of bicycles and walking;

6. Establishment of transportation demand management programs to modify peak hour travel demand and reduce the number of vehicle miles traveled per capita within the community and region;

7. Establishment of transportation system management strategies as appropriate to improve system efficiency and enhance safety;

8. Coordination of roadway and transit service improvements with the future needs of seaports, airports, and other related public transportation facilities;

9. Establishment of land use, site and building design guidelines for development in exclusive public transit corridors to assure the accessibility of new development to public transit;

10. Establishment of numerical indicators against which the achievement of the mobility goals of the community can be measured, such as modal split, annual transit trips per capita, automobile occupancy rates;

11. Establishment of strategies, agreements and other mechanisms with applicable local governments and regional and state agencies that demonstrate the areawide coordination necessary to implement the transportation, land use, parking and other provisions of the transportation element;

12. A coordinated and consistent policy with the future land use element to encourage land uses which promote public transportation in designated public transportation corridors;

13. Establishment of strategies to facilitate local traffic to use alternatives to the Florida Intrastate Highway System to protect its interregional and intrastate functions;

14. Development of strategies to address intermodal terminals and access to airport, rail and seaport facilities;

15. Provision of safe and convenient on-site traffic flow, considering needed motorized and non-motorized vehicle parking;

16. Establishment of measures for the acquisition and preservation of existing and future public transit rights-of-way and exclusive public transit corridors;

17. Promotion of ports, airports, and related facilities development and expansion consistent with the future land use, coastal management, and conservation elements;

18. Mitigation of adverse structural and non-structural impacts from ports, airports, or related facilities upon adjacent natural resources and land uses;

19. Protection and conservation of natural resources within ports, airports and related facilities;

20. Coordinated intermodal management of surface and water transportation within ports, airports and related facilities; and

21. Protection of ports, airports, or related facilities from the encroachment of incompatible land uses.

22. For multimodal transportation districts established pursuant to Sections 163.3180(15)(a) and (b), F.S., provide an interconnected network of streets and related facilities, such as sidewalk condition, availability and connectivity, street crossing convenience, transit proximity to origins and destinations, convenience and reliability of transit facilities, and roadway conditions for bicycles including lane width, surface condition, and separation from motor vehicle traffic, so as to promote walking and bicycling that is coordinated with land uses and other community design features and ensures convenient access to public transportation.

(5) FUTURE TRANSPORTATION MAP.

(a) The general location of the following transportation system proposed features shall be shown on the future transportation map or map series:

1. Road System:

a. Collector roads;

b. Arterial roads;

c. Limited and controlled access facilities;

d. Local roads, if being used to achieve mobility goals;

e. Parking facilities that are required to achieve mobility goals;

2. Public transit system:

a. Public transit routes or service areas;

b. Public transit terminals and transfer stations;

c. Public transit rights-of-way and exclusive public transit corridors;

3. Transportation concurrency management areas pursuant to sebsection 9J-5.0055(5), F.A.C., if any;

4. Transportation concurrency exception areas pursuant to subsection 9J-5.0055(6), F.A.C., if any;

5. Significant bicycle and pedestrian facilities;

6. Port facilities;

7. Airport facilities including clear zones and obstructions;

8. Freight and passenger rail lines; and

9. Intermodal terminals and access to such facilities.

(b) The future transportation map or map series shall identify the following:

1. The functional classification and maintenance responsibility for all roads;

2. The number of proposed through lanes for each roadway;

3. The major public transit trip generators and attractors based upon the future land use map or map series;

4. Projected peak hour levels of service for all transportation facilities for which level of service standards are established; and

5. Designated local and regional transportation facilities critical to the evacuation of coastal population prior to an impending natural disaster.

Specific Authority 163.3177(9), (10) FS. Law Implemented 163.3177(1), (3), (5), (8), (9), (10), 163.3178, 163.3180(13), (15) FS. History–New 3-23-94, Amended 3-21-99, 2-25-01.

9J-5.022 Standards for Review of Required Land Development Regulations.

(1) In determining whether a local government has totally failed to adopt one or more land development regulations required in subsection 163.3202(2), F.S., the Department shall examine the regulation or regulations in question to ensure that specific programs, activities, standards, actions or prohibitions which regulate or govern the subjects are included. The provisions described below are provided as examples to lend guidance to local governments in accordance with accepted and applied principles of comprehensive planning; however, innovative land development regulations are encouraged as well.

(a) The subdivision of land, including provisions which meet the requirements of Chapter 177, Part I, F.S., and include review procedures, design and development standards, provisions for adequate public facilities, mitigation of development impacts, land dedications, fees, and administrative provisions.

(b) The implementation of the land use categories in the Future Land Use Element consistent with the future land use map and goals, objectives and policies, including provisions for ensuring appropriate densities and intensities, compatible adjacent land uses and providing for open spaces.

(c) The control of land uses and activities that may affect potable water wells and wellfields, including identified cones of influence, in order to protect the potable water supply.

(d) The control of areas subject to seasonal and periodic flooding which may include the type, location, density and intensity of land uses located within these areas, in order to provide for drainage and stormwater management and mitigate the impacts of floods, including loss of life and property damage. Adequate drainage facilities may be provided to control individual and cumulative impacts of flooding and nonpoint source pollution in drainage basins existing wholly or in part within the jurisdiction.

(e) The protection of environmentally sensitive lands, as designated in the comprehensive plan, from development impacts, including ensuring the protection of soils, groundwater, surface water, shorelines, fisheries, vegetative communities and wildlife habitat.

(f) The regulation of signage, including but not limited to type, location, size, number and maintenance.

(g) Provisions assuring that 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 permit 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 local government 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 local government shall be

included in the Capital Improvements Element. Public facilities and services to be provided by the developer shall be guaranteed in an enforceable development agreement, including development agreements pursuant to Chapter 163, Part II, F.S., or agreements or development orders issued pursuant to Chapter 380, F.S.

(h) The number and sizes of on-site parking spaces, and the design of and control mechanisms for on-site vehicular and pedestrian traffic to provide for public safety and convenience.

(i) Other specific and detailed provisions necessary to implement the adopted comprehensive plan, including regulations which are specifically required in the objectives and policies of the adopted comprehensive plan.

(2) If, in the determination of the local governing body, existing regulatory provisions as applied in the jurisdiction by other agencies (whether federal, state, regional or local) are sufficient to meet the requirements of subsection 163.3202(2), F.S., the local government may incorporate these regulatory provisions by specific reference in whole or in part into the single land development code to avoid duplication of the language. The Department shall examine any such provision adopted by reference in determining whether a local government has totally failed to adopt one or more land development regulations required in subsection 163.3202(2), F.S.

Specific Authority 163.3202(5) FS. Law Implemented 163.3177(10)(h), 163.3194, 163.3202 FS. History–New 3-21-99.

9J-5.023 Criteria for Determining Consistency of Land Development Regulations with the Comprehensive Plan.

A determination of consistency of a land development regulation with the comprehensive plan will be based upon the following:

(1) Characteristics of land use and development allowed by the regulation in comparison to the land use and development proposed in the comprehensive plan. Factors which will be considered include:

(a) Type of land use;

(b) Intensity and density of land use;

(c) Location of land use;

(d) Extent of land use; and

(e) Other aspects of development, including impact on natural resources.

(2) Whether the land development regulations are compatible with the comprehensive plan, further the comprehensive plan, and implement the comprehensive plan. The term "compatible" means that the land development regulations are not in conflict with the comprehensive plan. The term "further" means that the land development regulations take action in the direction of realizing goals or policies of the comprehensive plan.

(3) Whether the land development regulations include provisions that implement objectives and policies of the comprehensive plan that require implementing regulations in order to be realized, including provisions implementing the requirement that public facilities and services needed to support development shall be available concurrent with the impacts of such development.

Specific Authority 163.3202(5) FS. Law Implemented 163.3194, 163.3213 FS. History–New 3-21-99.

9J-5.025 Public School Facilities Element for Public School Concurrency.

Public school concurrency may be imposed by local option. If the school board and the local governments within the school district choose to adopt public school concurrency, each local government must adopt a public school facilities element which meets the minimum criteria of this section. Public school concurrency is intended to ensure that the capacity of schools is sufficient to support development at the adopted level of service standard. These minimum criteria are intended to assure coordination between local governments and the school board in planning and permitting development and in building and adding capacity to schools so that school capacity at the adopted level of service standard is available at the time of the impacts of development. Local governments wishing to adopt an optional educational element which is not for the purpose of imposing school concurrency are not required to comply with these minimum criteria.

(1) Definitions applicable to Rule 9J-5.025, F.A.C.

(a) "Ancillary Plant" has the meaning described in Section 235.011(1), F.S.

(b) "Appropriate level of service standard" means school facilities adequate for the purpose of providing education for the projected enrollment that can be achieved and maintained throughout each year of the five-year planning period.

(c) "Educational Plant Survey" has the meaning described in Section 235.011(7), F.S.

(d) "FISH" means Florida Inventory of School Houses and has the meaning described in Section 235.15, F.S.

(e) “Public school concurrency service area” or “concurrency service area” means the geographic unit adopted by the local governments within which school concurrency is applied and determined.

(2) Data and Analysis Requirements. The element shall be based upon the following data and analysis requirements pursuant to subsection 9J-5.005(2), F.A.C.

(a) For each school facility: the existing enrollment, existing school attendance zones, existing FISH capacity or other professionally accepted measure of capacity; surplus capacity based on site size requirements contained within Department of Education design criteria, and existing level of service, utilizing the five-year school district facilities work program adopted pursuant to Section 235.185, F.S., and the educational plant survey.

(b) For each school facility: the projected enrollment by year for the initial five years of the planning period, and projected enrollment district-wide by school type for the end of the long range planning period of the host county, based on projected population.

(c) Existing and projected school facility surpluses and deficiencies by concurrency service area by year for the five-year planning period, and district-wide by school type for the end of the long range planning period of the host county based on projected enrollment.

(d) An analysis of the adequacy of the existing level of service conditions for each school facility in order to develop appropriate level of service standards.

(e) School facilities needed for each concurrency service area to accommodate projected enrollment at the adopted level of service standard each year for the five-year planning period, and for the end of the long range planning period of the host county, including ancillary plants and land area requirements. The plan shall explain the relationship, if any, of the ancillary plants to school concurrency.

(f) Analysis of problems and opportunities with existing public school facilities and projected public school facilities planned in the adopted district facilities work program, including location, supporting infrastructure, and overcrowding in relation to achieving and maintaining level of service standards for the five-year planning period and for the end of the long range planning period of the host county, including: opportunities and problems in collocating existing projected public school facilities with other public facilities such as parks, libraries and community centers; the need for supporting infrastructure, including, water, sewer, roads, drainage, sidewalks and bus stops for existing and projected public school facilities; and analysis of opportunities to locate public school facilities to serve as community focal points.

(g) Existing revenue sources and funding mechanisms available for school capital improvement financing; the estimated cost of addressing existing deficiencies and future needs identified above by year for the five-year planning period, and for the end of the long range planning period of the host county.

(h) The estimated cost of needed school capital improvements to correct deficiencies and meet future needs based on achieving and maintaining the adopted level of service standard identified by year for the five-year planning period, and for the end of the long range planning period of the host county.

(i) An assessment of the ability to finance capital improvements based upon projected enrollment and revenues during the five-year planning period: forecasting of revenues and expenditures for five years; projections of debt service obligations for currently outstanding bond issues; projection of ad valorem tax base, assessment ratio and millage rate; projections of other tax bases and other revenue sources, such as, impact and user fees; projection of facilities (and not program) operating cost considerations; and projection of debt capacity.

(j) Data and analysis showing how school concurrency costs will be met and shared by all affected parties, consistent with the requirement for a financially feasible capital improvements program for public schools.

(3) Requirements for Public School Facilities Goals, Objectives, and Policies.

(a) The public school facilities element shall contain one or more adopted goal statements which establish the long-term end toward which public school programs and activities are ultimately directed.

(b) The element shall contain one or more specific objectives for each goal statement which address the requirements of paragraph 163.3177(12)(d), F.S., and which:

1. Address correction of existing school facility deficiencies and facilities needed to meet future needs.

2. Ensure adequate school facility capacity consistent with the adopted level of service standard for each year of the five-year planning period and the long term planning period of the host county.

3. Ensure the inclusion in the five-year schedule of capital improvements of those projects necessary to address existing

deficiencies, and to meet future needs based upon achieving and maintaining the adopted level of service standards for each year of the five-year planning period.

4. Coordinate the location of public schools with the future land use map or map series of the relevant jurisdiction to ensure that existing and proposed school facilities are located consistent with the existing and proposed residential areas they serve and are proximate to appropriate existing and future land uses. The use of schools to serve as community focal points should also be addressed.

5. Coordinate existing and planned public school facilities with the plans for supporting infrastructure.

6. Coordinate location of public school facilities relative to the location of other public facilities such as parks, libraries and community centers to the extent possible.

(c) The element shall contain one or more adopted policies for each objective which establish the way in which programs and activities will be conducted to achieve an identified goal. At a minimum, the policies shall include:

1. If the school concurrency service area is less than district-wide, a policy which establishes guidelines and standards for modification of school concurrency service areas and changes in the use of schools. The policy shall ensure that the adopted level of service standards will be achieved and maintained for each year of the five-year planning period. The policy shall include standards for revision of concurrency service area boundaries to ensure that the utilization of school capacity is maximized to the greatest extent possible, taking into account transportation costs, court approved desegregation plans, as well as other factors.

2. A policy which requires the adoption of annual plan amendments adding a new fifth year, updating the financially feasible public schools capital facilities program, coordinating the program with the 5-year district facilities work plan, the plans of other local governments, and, as necessary, updates to the concurrency service area map. The annual plan amendments shall ensure that the capital improvements program continues to be financially feasible and that the level of service standards will continue to be achieved and maintained.

3. A policy addressing coordination of the annual review of the element with the school board, the county, and applicable municipalities; coordination of annual review of school enrollment projections, and establishing the procedures for the annual update process.

4. A policy addressing coordination of school site selection, permitting, and collocation of school sites with other public facilities such as parks, libraries and community centers.

5. A policy addressing provision of supporting infrastructure such as water and sewer, roads, drainage, sidewalks and bus stops for existing and projected public school facilities; and measures to ensure compatibility and close integration between public school facilities and surrounding land uses.

6. A policy addressing coordination of the long range public school facility map with the local government's comprehensive plan, including the future land use map.

7. A policy establishing level of service standards for public school facilities which can be achieved and maintained throughout the five-year planning period. Local governments adopting level of service standards using a measurement of capacity other than FISH, shall include appropriate data and analysis in support of such alternative measure.

8. If concurrency is not applied district-wide, a policy providing that development can proceed if the level of service standard is exceeded for a project, but capacity exists in one or more contiguous school concurrency service areas as adopted by the local government.

9. Policies specifying types of mitigation that a school board will allow to meet concurrency, and policies assuring that any mitigation funds provided as a result of the school concurrency system are utilized by the school board for appropriate school facilities.

10. A policy establishing measures to ensure compatibility of school sites and surrounding land uses.

11. A policy addressing coordination with adjacent local governments and the school district on emergency preparedness issues.

(4) The element shall include the following maps:

(a) A map or maps depicting existing location of public school facilities by type and existing location of ancillary plants.

(b) A future conditions map or map series which depicts the planned general location of public school facilities and ancillary plants by year for the five-year planning period, and for the end of the long range planning period of the host county.

(c) When the school concurrency service area is less than district-wide, a map or map series which depicts the school concurrency service areas.

Specific Authority 163.3177(9), 163.3180(13) FS., as amended by Chapter 98-176, Laws of Florida. Law Implemented 163.3177(12), 163.3180(12)

FS., as amended by Chapter 98-176, Laws of Florida. History–New 10-20-98.

9J-5.0055 Concurrency Management System.

The purpose of the concurrency management system is to establish an ongoing mechanism which ensures that public facilities and services needed to support development are available concurrent with the impacts of such development.

(1) GENERAL REQUIREMENTS. Each local government shall adopt, as a component of the comprehensive plan, objectives, policies and standards for the establishment of a concurrency management system. The concurrency management system will ensure that issuance of a development order or development permit is conditioned upon the availability of public facilities and services necessary to serve new development, consistent with the provisions of Chapter 163, Part II, F.S., and this rule. The concurrency management system shall include:

(a) A requirement that the local government shall maintain the adopted level of service standards for roads, sanitary sewer, solid waste, drainage, potable water, parks and recreation, mass transit, if applicable, and public schools if imposed by local option.

(b) A requirement that the local government Capital Improvements Element, as provided by Rule 9J-5.016, F.A.C., of this chapter, shall set forth a financially feasible plan which demonstrates that the adopted level of service standards will be achieved and maintained.

(c) A system for monitoring and ensuring adherence to the adopted level of service standards, the schedule of capital improvements, and the availability of public facility capacity.

(d) Guidelines for interpreting and applying level of service standards to applications for development orders and development permits and determining when the test for concurrency must be met. The latest point in the application process for the determination of concurrency is prior to the approval of an application for a development order or permit which contains a specific plan for development, including the densities and intensities of development.

(e) A requirement that the local government shall adopt land development regulations which specify and implement provisions of the concurrency management system and, as a minimum, provide a program that ensures that development orders and development permits are issued in a manner that will not result in a reduction in the levels of service below the adopted level of service standards for the affected facility.

(2) LEVEL OF SERVICE STANDARDS.

(a) For the purpose of the issuance of development orders and development permits, local governments must adopt level of service standards for public facilities and services located within the area for which such local government has authority to issue development orders and development permits. For the purposes of concurrency, public facilities and services include the following for which level of service standards must be adopted under Chapter 9J-5, F.A.C.:

1. Roads, subparagraph 9J-5.019(4)(c)1., F.A.C.
2. Sanitary sewer, sub-subparagraph 9J-5.011(2)(c)2.a., F.A.C.
3. Solid waste, sub-subparagraph 9J-5.011(2)(c)2.b., F.A.C.
4. Drainage, sub-subparagraph 9J-5.011(2)(c)2.c., F.A.C.
5. Potable water, sub-subparagraph 9J-5.011(2)(c)2.d., F.A.C.
6. Parks and Recreation, subparagraph 9J-5.014(3)(c)4., F.A.C.
7. Mass transit, subparagraph 9J-5.019(4)(c)1., F.A.C., if applicable.
8. Roads and public transit, subparagrap 9J-5.019(4)(c)1., F.A.C.
9. Public schools, subparagraph 9J-5.025(3)(c)7., F.A.C., if imposed by local option.

(b) A local government, at its option, may make additional public facilities and services subject to the concurrency management system. Level of service standards of such additional facilities must be adopted in the local government comprehensive plan. A local government may adopt multimodal level of service standards for transportation facilities, as authorized in Section 163.3180(15)(a), F.S., using the Florida Department of Transportation methodology for multimodal level of service standards or other professionally accepted methodologies. If a local government desires to extend the concurrency requirement to public schools, the local government shall adopt the necessary amendments as specified in Section 163.3180(13), F.S., including a public school facilities element and interlocal agreement for school concurrency which are determined to be in compliance with the requirements of law. The local government and school board shall jointly establish level of service standards that apply district-wide to all public schools of the same type including elementary, middle, and high schools as well as special purpose facilities such as magnet schools. Local

governments and school boards shall have the option of utilizing tiered level of service standards as provided in subparagraph (d) of this section. If the local government chooses to apply school concurrency on less than a district-wide basis, such as utilizing school attendance zones or larger school concurrency service areas, the local government and school board shall have the burden to demonstrate in the comprehensive plan that the utilization of school capacity is maximized to the greatest extent possible.

(c) For facilities on the Florida Intrastate Highway System as defined in Section 338.001, F.S., the local governments shall adopt the level of service standards established by the Department of Transportation by rule. With the concurrence of the Department of Transportation, local governments may establish level of service standards for general lanes in urbanized areas as specified in Section 163.3180(10), F.S. For other roads local governments shall adopt adequate level of service standards. These level of service standards shall be adopted to ensure that adequate facility capacity will be provided to serve the existing and future land uses as demonstrated by the supporting data and analysis in the comprehensive plan.

(d) A local government may desire to have a tiered, two-level approach for the level of service standard. To utilize a tiered approach, the local government must adopt an initial level of service standard as a policy to be utilized for the purpose of the issuance of development orders and development permits. A second policy may be included which adopts a higher level of service standard by a date certain to be utilized for the purpose of the issuance of development orders and permits. The specific date for this second policy to become effective must be included in the plan. The plan must set forth the specific actions and programs for attaining the higher level of service by the specified date. If the identified actions and programs are not attained by the specified date, the local government comprehensive plan must be amended to specify the level of service standard that will be utilized and be binding for the purpose of the issuance of development orders and permits.

(3) MINIMUM REQUIREMENTS FOR CONCURRENCY. Every jurisdiction shall maintain a concurrency management system to ensure that public facilities and services to support development are available concurrent with the impact of development, consistent with the provisions of this Chapter.

(a) For sanitary sewer, solid waste, drainage, and potable water facilities, at a minimum, a local government shall meet the following standards to satisfy the concurrency requirements:

1. A development order or permit 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

2. At the time the development order or permit is issued, the necessary facilities and services are guaranteed in an enforceable development agreement, pursuant to Section 163.3220, F.S., or an agreement or development order issued pursuant to Chapter 380, F.S., to be in place and available to serve new development at the time of the issuance of a certificate of occupancy or its functional equivalent. [Section 163.3180(2)(a), F.S.]

(b) For parks and recreation facilities, at a minimum, a local government shall meet the following standards to satisfy the concurrency requirement:

1. At the time the development order or permit is issued, the necessary facilities and services are in place or under actual construction; or

2. A development order or permit is issued subject to the condition that, at the time of the issuance of a certificate of occupancy or its functional equivalent, the acreage for the necessary facilities and services to serve the new development is dedicated or acquired by the local government, or funds in the amount of the developer's fair share are committed; and

a. A development order or permit is issued subject to the conditions that the necessary facilities and services needed to serve the new development are scheduled to be in place or under actual construction not more than one year after issuance of a certificate of occupancy or its functional equivalent as provided in the adopted local government 5-year schedule of capital improvements; or

b. At the time the development order or permit is issued, the necessary facilities and services 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 year after issuance of a certificate of occupancy or its functional equivalent; or

c. At the time the development order or permit is issued, the necessary facilities and services are guaranteed in an enforceable development agreement, pursuant to Section 163.3220, F.S., or an agreement or development order issued pursuant to Chapter 380, F.S., to be in place or under actual construction not more than one year after issuance of a certificate of occupancy or its functional equivalent. [Section 163.3180(2)(b), F.S.]

(c) For transportation facilities (roads and mass transit designated in the adopted local government comprehensive plan), at a minimum, a local government shall meet the following standards to satisfy the concurrency requirement, except as otherwise provided in subsections (4)-(7) of this section.

1. At the time a development order or permit is issued, the necessary facilities and services are in place or under construction; or

2. A development order or permit is issued subject to the conditions that the necessary 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 or its functional equivalent as provided in the adopted local government five-year schedule of capital improvements. The schedule of capital improvements may recognize and include transportation projects included in the first three years of the applicable, adopted Florida Department of Transportation five year work program. The Capital Improvements Element must include the following policies:

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

b. A provision that a plan amendment is required to eliminate, defer, or delay construction of any road or mass transit facility or service which is needed to maintain the adopted level of service standard and which is listed in the five-year schedule of capital improvements; or

3. At the time a development order or permit is issued, the necessary facilities and services 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 no more than three years after the issuance of a certificate of occupancy or its functional equivalent; or

4. At the time a development order or permit is issued, the necessary facilities and services are guaranteed in an enforceable development agreement, pursuant to Section 163.3220, F.S., or an agreement or development order issued pursuant to Chapter 380, F.S., to be in place or under actual construction not more than three years after issuance of a certificate of occupancy or its functional equivalent. [Section 163.3180(2)(c), F.S.]

5. For the purpose of issuing a development order or permit, a proposed urban redevelopment project located within a defined and mapped Existing Urban Service Area as established in the local government comprehensive plan pursuant to Section 163.3164(29), F.S., shall not be subject to the concurrency requirements of subparagraphs 9J-5.0055(3)(c)1.-4., F.A.C., of this chapter for up to 110 percent of the transportation impact generated by the previously existing development. For the purposes of this provision, a previously existing development is the actual previous built use which was occupied and active within a time period established in the local government comprehensive plan. [Section 163.3180(8), F.S.]

6. For the purpose of issuing a development order or permit, a proposed development may be deemed to have a de minimis impact and may not be subject to the concurrency requirements of subparagraphs 9J-5.0055(3)(c)1.-4., F.A.C., only if all of the conditions specified in subsection 163.3180(6), F.S., are met. [Section 163.3180(6), F.S.]

7. A development order or permit within a designated multimodal transportation district may be issued provided the planned community design capital improvements are included in a financially feasible long range schedule of improvements for the development or redevelopment time-frame for the district, without regard to the period of time between development or redevelopment and the scheduled construction of the capital improvements as specified in Section 163.3180(15)(c), F.S.

(d) For school facilities, a local government shall meet the following minimum standards to satisfy the concurrency requirement:

1. For district-wide concurrency service areas:

a. At the time the residential development order or permit is issued, the necessary facilities and services are in place or under construction; or

b. A residential development order or permit is issued subject to the conditions that the necessary facilities and services needed to serve the new development are scheduled to be in place or under construction not more than 3 years after permit issuance as provided in the adopted public school facilities program.

2. For less than district-wide concurrency service areas: If public school concurrency is applied on less than a district-wide basis in the form of concurrency service areas, a residential development order or permit shall be issued only if the needed capacity for the particular service area is available in one or more contiguous service areas and school capacity is available district-wide as defined in Section 163.3180(13)(e), F.S.

(4) LONG TERM TRANSPORTATION CONCURRENCY MANAGEMENT SYSTEMS. To correct existing deficiencies in transportation facilities and to set priorities for reducing the backlog on transportation facilities, local governments are authorized to adopt, as a part of the comprehensive plan, a long-term transportation concurrency management system with a planning period of up to 10 years that meets the following requirements:

(a) To implement a long-term transportation concurrency management system, a local government must designate in the comprehensive plan specific areas where significant backlogs presently exist. These areas must be delineated on an adopted

comprehensive plan map and must be consistent with other elements of the comprehensive plan including the future land use map.

(b) The long term concurrency management system must be a financially feasible system to ensure that existing deficiencies are corrected within the 10 year period and establish priorities for addressing backlogged facilities. This may be accomplished by adopting a long-term schedule of capital improvements for transportation facilities for up to 10 years for the special concurrency districts or areas. The long-term schedule of capital improvements must include the transportation facilities required to correct existing deficiencies as well as to accommodate new development, and shall provide a realistic, financially feasible funding system based on currently available revenue sources which must be adequate to fund the scheduled improvements. The schedule must also include the estimated date of commencement of actual construction and the estimated date of project completion. This schedule may be relied on as a basis for issuing development permits which meet concurrency requirements in lieu of the provision of subparagraphs 9J-5.0055(3)(c)1.-4., F.A.C., of this chapter.

(c) A policy in the local comprehensive plan that a plan amendment shall be required to eliminate, defer, or delay construction of any road or public transit facility or service which is needed to maintain the adopted level of service standard and which is listed in the long-term schedule of capital improvements, if established.

(d) As part of a long-term transportation concurrency management system, a local government may adopt policies in its comprehensive plan to establish interim level of service standards on certain facilities in long-term concurrency areas for the purpose of the issuance of development orders and permits in these districts. The local government may establish a schedule for achieving specified improvements in the interim level of service standards for intervals of time in the future. The plan should set forth specific actions and programs including a monitoring program for achieving the scheduled improvements in the interim levels of service. This monitoring program should require that in the event that the identified actions and programs are not attained as scheduled, the local government comprehensive plan should be amended to specify the default level of service standards that will be utilized and be binding for the purpose of the issuance of development orders and permits.

(e) Local governments with a severe backlog of transportation facilities may request the Department's approval for a planning period of up to 15 years for establishing a long-term transportation concurrency management system which meets the requirements of subsection 9J-5.0055(4), F.A.C., of this chapter. A local government seeking such an approval must demonstrate that its transportation backlog for existing development cannot be adequately addressed with a 10-year plan. In considering such a request, the department's analysis shall include a comparison of the circumstances of the requesting local government with the general situation facing similarly situated jurisdictions, using the following criteria:

1. The extent of the backlog.
2. Whether the backlog is on local or state roads.
3. The cost of eliminating the backlog.
4. The local government's tax and other revenue raising efforts. [Section 163.3180(9), F.S.]

(5) TRANSPORTATION CONCURRENCY MANAGEMENT AREAS. The purpose of this optional alternative transportation concurrency approach is to promote infill development or redevelopment within selected portions of urban areas in a manner that supports the provision of more efficient mobility alternatives, including public transit. As a coordinated approach to land use and transportation development, it may employ the use of an areawide level of service standard and an accommodation and management of traffic congestion. A transportation concurrency management area is a compact geographic area with existing or proposed multiple, viable alternative travel paths or modes for common trips.

(a) An areawide level of service standard may be established for specified facilities, and must be maintained, as a basis for the issuance of development orders and permits within one or more designated transportation concurrency management areas. Areawide level of service standards may only be established for facilities with similar functions serving common origins and destinations. Designation of each transportation concurrency management area and establishment of areawide level of service standards within such areas must be supported by data and analysis in the local government comprehensive plan support document which:

1. Demonstrate that the transportation concurrency management areas, as designated, are compatible with and further the various portions and elements of the local comprehensive plan.

2. Provide a justification of the size and boundaries of each transportation concurrency management area for consistency with the purpose of this subsection.

3. Demonstrate that transportation concurrency management areas as designated contain an integrated and connected network of roads and provide multiple, viable alternative travel paths or modes for common trips.

4. Demonstrate the basis for establishing the areawide level of service standards and determine existing and projected

transportation service and facility requirements that will support the established areawide level of service standard.

5. Demonstrate that the established areawide level of service and other transportation services and programs will support infill development or redevelopment.

6. Demonstrate that the planned roadway improvements and other services and programs such as, transportation system management (TSM) and/or transportation demand management (TDM) strategies and incentives to use public transit (such as parking policies and provision of intermodal transfers), will accomplish mobility within and through each concurrency management area.

(b) Transportation concurrency management areas established pursuant to this subsection shall be delineated on the future conditions maps, including the future traffic circulation map or transportation map, as applicable, of a local government comprehensive plan consistent with this subsection. The areawide level of service standards and associated maximum service volumes must be established as policies in the comprehensive plan. Transportation concurrency management areas may transcend jurisdictional boundaries when appropriate and must be designated in each applicable comprehensive plan consistent with the provisions of this subsection. A local government should coordinate with the Department of Transportation, and if applicable, the metropolitan planning organization when designating transportation concurrency management area boundaries.

(c) The local comprehensive plan shall contain objectives and policies which specify actions and programs to promote infill development and redevelopment. A local government shall adopt and maintain an integrated and internally consistent transportation, land use, and capital improvement planning program for each concurrency management area to maintain the established areawide level of service standard.

(6) TRANSPORTATION CONCURRENCY EXCEPTION AREAS. The purpose of this flexible transportation concurrency option approach is to reduce the adverse impact transportation concurrency may have on urban infill development and redevelopment and the achievement of other goals and policies of the state comprehensive plan, such as promoting the development of public transportation. Under limited circumstances, it allows exceptions to the transportation concurrency requirement in specifically defined urban areas of a jurisdiction. The exceptions provide flexibility for concurrency management in order to encourage the application of a wide range of planning strategies that correspond with local circumstances of a specific geographic area. The exceptions apply to all land uses and development and types of facilities within expressly excepted areas. Local governments must specifically consider the impacts of the exception areas on the Florida Intrastate Highway System.

(a) In order to exercise the option of establishing a transportation concurrency exception area, a local government must designate in its comprehensive plan a specific geographic area, or areas, of transportation concurrency exception, consistent with the purpose of this subsection. A proposed development located in a designated exception area shall not be subject to the requirements of subparagraphs 9J-5.0055(3)(c)1.-4., F.A.C., of this chapter. The designation of a transportation concurrency exception area may include:

1. A specific geographic area, or areas, delineated in the local government comprehensive plan for urban infill development pursuant to Section 163.3164(27), F.S. The local comprehensive plan shall contain objectives and policies which specify actions and programs to promote urban infill development. An area delineated for urban infill development shall meet the following requirements.

a. The area contains not more than 10 percent developable vacant land. The developable vacant land shall not include water bodies and land designated for conservation use, natural reservations, public road rights of way, public recreation sites, or related activities or uses designated in the local government's comprehensive plan as unavailable for development.

b. For areas where residential use is the predominant type of use comprising greater than 60 percent of the developed land, the average residential density shall be at least five dwelling units per gross residentially developed acre of land use. For areas where nonresidential use is the predominate type of use comprising greater than 60 percent of the developed land, the average nonresidential density shall be at least a floor area ratio of 1.0 per gross nonresidentially developed acre of land use. If neither residential nor nonresidential uses comprise greater than 60 percent of the developed land, then both the existing residential use and nonresidential use shall meet the appropriate density and intensity criteria prescribed above. The term "gross developed acre" shall include all uses associated with the predominant land use including parking, drainage, open space, landscaping and other support facilities.

2. A specific geographic area, or areas, delineated in the local government comprehensive plan for urban redevelopment pursuant to Section 163.3164(26), F.S. The plan must show that the urban redevelopment area is within an urban infill area which meets the criteria of sub-subparagraphs 9J-5.0055(6)(a)1.a. and b., F.A.C., which is established as a specific geographic area in the

plan, or within an existing urban service area pursuant to Section 163.3164(29), F.S., established in the plan as a specific geographic area which does not contain more than 40 percent developable vacant land. The local comprehensive plan shall contain objectives and policies which specify actions and programs to promote urban redevelopment. A designated urban redevelopment area may include a Community Redevelopment Area established pursuant to the Community Redevelopment Act of 1969 when these areas exist within an urban infill area or an Existing Urban Service Area as designated in the local comprehensive plan.

3. A specific geographic area delineated in the local government comprehensive plan for downtown revitalization within the designated central business district pursuant to Section 163.3164(25), F.S. The comprehensive plan shall contain objectives and policies which specify actions and programs to promote downtown revitalization.

(b) To implement the transportation concurrency exception areas, the following requirements must be met:

1. The transportation concurrency exception areas, as designated, must be compatible with and further the various portions and elements of the local comprehensive plan.

2. The size and boundaries of each transportation concurrency exception area must be supported by data and analysis in the local government's plan support document which demonstrate consistency with the requirements of this subsection. A local government should coordinate with the Department of Transportation and the local metropolitan planning organization when designating transportation concurrency exception area boundaries.

3. Transportation concurrency exception areas may transcend jurisdictional boundaries when appropriate and must be designated in each applicable comprehensive plan consistent with the provisions of this subsection.

(c) To implement the transportation concurrency exceptions, a local government should adopt as an amendment to its comprehensive plan, guidelines and/or policies which specify programs to address transportation needs of such areas. The guidelines may incorporate a wide range of strategies including, timing and staging plans, parking control and pricing policies, transportation demand management programs, transportation system management programs availability of public transportation, and utilization of creative financing tools for the provision of transportation services and facilities.

(d) The guidelines and/or policies and programs implementing a transportation concurrency exception area as required in the above paragraph (c), if applicable, must demonstrate by supporting data and analysis, including short and long range traffic analysis, that consideration has been given to the impact of proposed development within the concurrency exception area on the Florida Intrastate Highway System.

(7) CONCURRENCY EXCEPTION – FOR PROJECTS THAT PROMOTE PUBLIC TRANSPORTATION. The purpose of this flexible transportation concurrency option is to reduce the adverse impact transportation concurrency may have on the promotion of public transportation including goals and policies of the state comprehensive plan. Local governments may exempt projects that promote public transportation as defined in Section 163.3164(28), F.S., by establishing in the local comprehensive plan, guidelines and/or policies for the granting of such exceptions. Those guidelines must demonstrate by supporting data and analysis, that consideration has been given to the impact of the projects on the Florida Interstate Highway System. The guidelines must establish how a project will qualify as a project that promotes public transportation.

(8) CONCURRENCY EXCEPTION — FOR PUBLIC TRANSIT FACILITIES. Public transit facilities, as described in Section 163.3180(4)(b), F.S., shall not be subject to the concurrency requirement.

(9) PRIVATE CONTRIBUTIONS TO LOCAL GOVERNMENT CAPITAL IMPROVEMENT PLANNING. In order to exercise the option of issuing a development order or permit pursuant to Section 163.3180(11), F.S., a local government must identify in the comprehensive plan a process for assessing, receiving, and applying a fair share of the cost of providing the transportation facilities necessary to serve the proposed development. A local government comprehensive plan may authorize multi-use developments of regional impact to satisfy the transportation concurrency requirement by payment of a proportionate share contribution consistent with Section 163.3180(12), F.S. The transportation facilities must be included in a financially feasible five-year Capital Improvement Schedule adopted pursuant to R.ule 9J-5.016, F.A.C., of this chapter. The assessment shall have a reasonable relationship to the transportation impact that is generated by the proposed development.

Specific Authority 163.3177(9), (10), (11)(e) FS. Law Implemented 163.3177(3), (6), (8), (9), (10), (11), 163.3180 FS. History–New 11-22-89, Amended 3-23-94, 3-21-99, 2-25-01.

Appendix C

FAC Chapter 9J-11

APPENDIX
9J-11
TABLE OF CONTENTS

9J-11.001 Purpose. 1
9J-11.004 Submittal Requirements for Proposed Local Government Comprehensive Plans. 1
9J-11.006 Submittal Requirements for Proposed Local Government Comprehensive Plan Amendments. 1
9J-11.007 Data and Analysis Requirements for Proposed Local Government Comprehensive Plan Amendments. 4
9J-11.008 Action Upon Receipt or Non-Receipt of Proposed Local Government Comprehensive Plan. 4
9J-11.009 Action Upon Receipt of Proposed Local Government Comprehensive Plan Amendment. 5
9J-11.010 Review of Proposed Local Government Comprehensive Plan or Proposed Plan Amendment. 7
9J-11.011 Local Government Adoption of the Comprehensive Plan or Plan Amendment and Submittal for the Compliance Review. 8
9J-11.012 Compliance Review and Notice of Intent. 10
9J-11.015 Submittal Requirements for Adopted Amendments that Are Exempt from State and Regional Review. 12
9J-11.018 Evaluation and Appraisal Reports and Evaluation and Appraisal Report-Based Amendments. 13
9J-11.019 Action to Require Local Government to Submit Land Development Regulations for Review. 15
9J-11.020 Action to Review Land Development Regulations. 15
9J-11.021 Action if Local Government Has Failed to Adopt the Required Land Development Regulations. .. 16
9J-11.022 Submittal Requirements for Public Schools Interlocal Agreement and Amended Agreements. 16
9J-11.0131 Local Government Adoption of Comprehensive Plan Compliance Agreement Amendment(s) and Transmittal to the Department. 17

9J-11.001 Purpose.

This chapter establishes procedures for the submittal and review of local government comprehensive plans, plan amendments, land development regulations and evaluation and appraisal reports pursuant to the Local Government Comprehensive Planning and Land Development Regulation Act, Chapter 163, Part II, F.S., and Chapter 9J-5, F.A.C. It specifies the documents and information to be submitted for review at the time plans, plan amendments, land development regulations, evaluation and appraisal reports, and public schools interlocal agreements are submitted to the Department for review. It describes the actions the Department takes upon receipt of the submitted documents and information, or when a plan or element or evaluation and appraisal report or public schools interlocal agreement is not submitted. It also describes the procedures the Department follows for review of plans and plan amendments and procedures for the issuance of a notice of intent and sufficiency finding for an evaluation and appraisal report and consistency finding for a public schools interlocal agreement.

Specific Authority 163.3177(9) FS. Law Implemented 163.3177(9), 163.31777, 163.3181, 163.3184, 163.3187, 163.3191 FS. History–New 9-22-87, Amended 11-10-93, 11-6-96, 1-8-01, 11-24-02.

9J-11.004 Submittal Requirements for Proposed Local Government Comprehensive Plans.

(1) Each proposed comprehensive plan shall be submitted in accordance with Section 163.3167, F.S.

(2) The local government shall submit three copies of all comprehensive plan materials, of which at least one copy shall be paper and up to two copies may be on CD ROM in Portable Document Format (PDF), including graphic and textual materials and support documents directly to the Florida Department of Community Affairs, Division of Community Planning, Plan Processing Team and one copy directly to the appropriate agencies listed in subsection 9J-11.009(6), F.A.C. Each proposed comprehensive plan shall be accompanied by the following documents:

(a) A transmittal letter from the local governing body or its designee stating the date or dates on which the local governing body held the public hearing at which the transmittal of the plan to the Department was approved. The transmittal letter shall also specify:

1. Whether the plan is applicable to an area of critical state concern pursuant to Chapter 380, F.S.;

2. Whether the plan applies to the Wekiva River Protection Area pursuant to Chapter 88-393, Laws of Florida;

3. Whether the plan includes any optional elements;

4. Whether the plan is proposed to be adopted under a joint planning agreement pursuant to Section 163.3171, F.S., and the local governments who are a party to the joint planning agreement. If the plan is subject to a joint planning agreement, the transmittal letter shall be signed by the chief elected official of each local government or his or her designee;

5. The name, title, address, telephone number, and facsimile machine number (if any) of the person who is familiar with the proposed plan and is responsible for ensuring that the materials transmitted are complete; and

6. Any locations where the plan is available for public inspection during normal business hours and the Department's objections, recommendations and comments eventually issued on the plan will be made available for public inspection during normal business hours;

(b) A copy of the procedures for public participation that have been adopted by the local planning agency and the governing body in accordance with Section 163.3181, F.S., and Rule 9J-5.004, F.A.C.;

(c) The comprehensive plan including goals, objectives, policies, maps, and support documents which include data and analyses specified in Rule 9J-5.005, F.A.C. Summaries of support documents may be submitted consistent with subsection 9J-5.005(2), F.A.C.;

(d) In the event the local government does not include all of the goals, objectives, policies, maps, and support documents which include data and analyses required by Chapter 9J-5, F.A.C., in its submittal, it shall include a list identifying all omitted items and the reason for each omission.

Specific Authority 163.3177(9) FS. Law Implemented 163.3167(2), 163.3177(1), (4)(b), (7), (9), 163.3184(2), (3), (14), (15), 163.3191 FS. History–New 9-22-87, Amended 10-11-88, 11-10-93, 11-6-96, 4-8-99, 11-24-02, 6-30-05, 4-17-06.

9J-11.006 Submittal Requirements for Proposed Local Government Comprehensive Plan Amendments.

(1) The local government shall submit three copies of each proposed amendment, of which at least one copy shall be paper and up to two copies may be on CD ROM in Portable Document Format (PDF), including applicable supporting documents which include data and analyses directly to the Florida Department of Community Affairs, Division of Community Planning, Plan

Processing Team, and one copy directly to the appropriate agencies list in subsection 9J-11.009(6), F.A.C. Proposed plan amendments, except those discussed under the exemption provisions of subparagraph 9J-11.006(1)(a)7., F.A.C., below, shall be consolidated into a single submission for each of the two plan amendment adoption times during the calendar year. The comprehensive plan submitted pursuant to Section 163.3167, F.S., shall be counted as one of the two plan amendment adoption times during the calendar year; however, only the submittal requirements of Rule 9J-11.004, F.A.C., must be followed. For each proposed plan amendment submittal package, the local governing body shall submit:

(a) A transmittal letter from the local governing body or its designee which shall specify the following:

1. The date or dates on which the local planning agency held the public hearing on the plan amendment;

2. The date or dates on which the local governing body held the public hearing at which the transmittal of the plan amendment to the Department was approved and the date that the proposed amendment and one copy of each item specified under paragraphs 9J-11.006(1)(a), (b), and (c), F.A.C., was submitted to the appropriate agencies listed in subsection 9J-11.009(6), F.A.C.

3. A summary of the plan amendment content and effect and whether the local government requests that the Department review the proposed amendment;

4. The proposed month of adoption of the proposed plan amendment;

5. Whether the proposed amendment is applicable to an area of critical state concern;

6. For plan amendments within Orange, Lake and Seminole Counties, whether the plan amendment applies to the Wekiva River Protection Area pursuant to Chapter 369, Part III, F.S.;

7. Whether the proposed amendment is one of the exemptions to the twice per calendar year limitation on the adoption of comprehensive plan amendments and the facts and circumstances which cause the amendment to be considered as one of the following exemptions:

a. Directly related to a proposed development of regional impact pursuant to Chapter 380, F.S., including changes which are determined to be substantial deviations and Florida Quality Developments. In order for an amendment to be exempt from the twice-a-year amendment restriction under the development-of-regional-impact provision, the amendment must have been transmitted and adopted pursuant to Section 380.06(6)(b), F.S. The comprehensive plan, elements and amendments shall be adopted by ordinance at the public hearings required by Section 380.06(6)(b), F.S., after the notices required by Sections 163.3184(15)(b) and (c), and 380.06(6)(b), F.S. A copy of the transmittal letter to the regional planning council applying for development approval shall accompany the development of regional impact amendment when submitted to the Department;

b. Directly related to proposed small scale development activities pursuant to Section 163.3187(1)(c), F.S.;

c. An emergency as defined in Section 163.3187(1)(a), F.S. In the case of an emergency, the transmittal of the amendment must be unanimously approved by the local governing body. The transmittal shall include a statement which sets forth the facts and circumstances justifying the emergency;

d. An amendment submitted to the Department pursuant to a compliance agreement;

e. Whether the amendment updates the intergovernmental coordination element to comply with Section 163.3177(6)(h)5., F.S.;

f. An amendment submitted to the Department for the location of a state correctional facility;

g. An amendment submitted to the Department identifying the land use categories in which public schools are an allowable use pursuant to Section 163.3177(6)(a), F.S.;

h. An amendment that changes the schedule in the capital improvement element, and any amendments directly related to the schedule pursuant to Section 163.3187(1)(f), F.S.;

i. An amendment relating to an economic development project as defined under Section 403.973, F.S.;

j. An amendment directly related to proposed redevelopment of brownfield areas designated under Section 376.80, F.S.;

k. An amendment for port transportation facilities and projects that are eligible for funding by the Florida Transportation and Economic Development Council pursuant to Section 311.07, F.S.;

l. An amendment for the purpose of designating an urban infill and redevelopment area under Section 163.2517, F.S.

m. Directly related to providing transportation improvements as provided for in Section 163.3187(1)(k), F.S.;

n. An amendment adopting a public school facilities element pursuant to Sections 163.3177(12) and 163.3187(1)(l), F.S.;

o. An amendment to the future land use map identifying school sites pursuant to Sections 163.3177(6)(a) and 163.3187(1)(l), F.S.;

p. An amendment to the Intergovernmental Coordination Element pursuant to Section 163.3177(6)(h)4.b., F.S.;

q. An amendment adopting a boating facility siting plan or policy pursuant to Section 380.06(24)(k)1., F.S.;

r. An amendment addressing criteria or compatibility of land uses adjacent to or in close proximity to military installations pursuant to Section 163.3187(1)(m), F.S.;

s. An amendment establishing or implementing a rural land stewardship area pursuant to Section 163.3177(11)(d), F.S.;

t. An amendment incorporating the regional water supply work plan approved pursuant to Sections 373.0361 and 163.3177(6)(c), F.S.;

u. An amendment implementing the Wekiva Study Area plan pursuant to Section 369.321, F.S.;

v. An amendment to the capital improvements element to update the schedule of capital improvements on an annual basis pursuant to Section 163.3177(3)(b)1., F.S.;

w. An amendment to the capital improvements element other than an update to the schedule of capital improvements pursuant to Section 163.3177(3)(b)2., F.S.;

x. An amendment that is intended to incorporate a community vision meeting the criteria of Section 163.3177(13), F.S., as a component to the comprehensive plan pursuant to Section 163.3177(13)(f), F.S.;

y. An amendment that is intended to designate an urban service boundary meeting the criteria of Section 163.3177(14), F.S., pursuant to Section 163.3177(14)(b), F.S.;

z. A map amendment consistent with Section 163.3184(17), F.S., within the urban service boundary for those local governments that have adopted a community vision and urban service boundary pursuant to Sections 163.3177(13) and (14), F.S.;

aa. A map amendment consistent with Section 163.3184(18), F.S., within the urban infill and redevelopment area for those local governments that have adopted an urban infill and redevelopment area pursuant to Section 163.2517, F.S.;

bb. An amendment submitted pursuant to Section 163.3187(1)(o), F.S., within an area designated by the Governor as a rural area of critical economic concern under Section 288.0656(7), F.S.; and

cc. An amendment necessary to carry out the approved recommendation of a special magistrate under Section 70.051, F.S.

8. Whether the local government has sent a copy of its complete adopted comprehensive plan including amendments with all support documents which includes data and analyses to all of the review agencies listed in subsection 9J-11.009(6), F.A.C. If the plan amendment is being submitted pursuant to Section 163.3191, F.S., verify that copies of the Evaluation and Appraisal Report have been submitted to agencies listed in subsection 9J-11.009(6), F.A.C. The Department will not process a proposed amendment and the review time for the amendment shall not begin if copies of the entire element being amended are not transmitted unless the local government has provided the Department with a transmittal letter certifying that the plan and Evaluation and Appraisal Report, if applicable, has been sent to the review agencies, with a copy of the letter sent to each agency;

9. Whether the amendment is proposed to be adopted under a joint planning agreement pursuant to Section 163.3171, F.S., and a list of the local governments included in the agreement who are a party to the joint planning agreement. If the plan amendment is subject to a joint planning agreement, the transmittal letter shall be signed by the chief elected official of each local government or his or her designee; and

10. The name, title, address, telephone number, facsimile number, and e-mail address, if any, of the person for the local government who is familiar with the proposed amendment(s) and is responsible for ensuring that the materials transmitted are complete.

(b) The proposed amendment package shall include all proposed text, maps and support documents which includes data and analyses, as reflected on new pages of the affected element in a strike through and underline format or similar easily identifiable format identifying the plan amendment number on each page affected. In the case of future land use plan map amendments, the following additional information must be provided:

1. Future land use map(s) depicting the following information:

a. The proposed future land use map designation of the subject property; the boundary of the subject property and its location in relation to the surrounding street and thoroughfare network;

b. The present future land use map designations of the subject property and the abutting properties adjoining the subject area;

2. An existing land use map depicting the existing land use(s) of the subject property and abutting properties;

3. The size of the subject property in acres or fractions thereof;

4. A description of the availability of and the demand on the following public facilities: sanitary sewer, solid waste, drainage, potable water, traffic circulation, schools and recreation, as appropriate; and

5. Information regarding the compatibility of the proposed land use amendments with the land use element objectives and policies, and those of other affected elements;

(c) Copies of staff, local planning agency and local governing body recommendations and copies of support document(s) or summaries of the support documents on which the recommendations regarding the proposed plan amendment(s) are based;

(2) Any plan amendment which is not identified as an exemption listed in subparagraph 9J-11.006(1)(a)7., F.A.C., will be considered to be an amendment submitted for one of the two times per calendar year that plan amendments may be adopted. This provision is not to preclude the allowed exemptions from being included in the consolidated single submission for each of the two plan amendment adoption times during the calendar year. All exemptions must be clearly identified.

(3) Local governments must make a determination on transmittal of proposed amendments related to developments of regional impact within 60 days of the filing of the application for development approval unless that time is extended by the developer.

Specific Authority 163.3177(9) FS. Law Implemented 163.3177(3), (6), (9), (13), (14), 163.3184(1), (2), (3), (15), (17), (18), 163.3187(1), (2), (5), 163.3191, 369.321(5), 380.06(6) FS. History–New 9-22-87, Amended 10-11-88, 11-10-93, 11-6-96, 4-8-99, 1-8-01, 11-24-02, 6-30-05, 4-17-06.

9J-11.007 Data and Analysis Requirements for Proposed Local Government Comprehensive Plan Amendments.

(1) Each proposed plan amendment must be supported by data and analysis in accordance with subsection 9J-5.005(2), F.A.C. and subparagraphs 9J-11.006(1)(b)1. through 5., F.A.C. If the original plan data and analysis or the data and analysis of a previous amendment support and meet the requirements cited above for the amendment, no additional data and analysis are required to be submitted to the Department unless the previously submitted data and analysis no longer include and rely on the best available existing data. Copies of the updated and reanalyzed data and analysis must be submitted if the original plan data or data in support of a previous amendment are no longer the best available data and analysis or if the data and analysis no longer support the plan.

(2) If a local government relies on original plan data and analysis or the data and analysis of a previous amendment to support an amendment, it shall provide to the Department, at the time of the proposed submittal, a reference to the specific portions of the previously submitted data and analysis on which the local government relies to support the amendment.

(3) All plan amendments must meet the requirements of Chapter 9J-5, F.A.C.

Specific Authority 163.3177(9) FS. Law Implemented 163.3177(9), 163.3171, 163.3174, 163.3177, 163.3178, 163.3181, 163.3184, 163.3187 FS. History–New 11-10-93, Amended 11-6-96.

9J-11.008 Action Upon Receipt or Non-Receipt of Proposed Local Government Comprehensive Plan.

(1) The Department shall review the material submitted to ensure that all of the applicable comprehensive plan materials required by Chapter 9J-5, F.A.C., and this chapter are included in the package submitted for review. The Department will send a notification to the local government when its submittal is complete.

(2) If the transmittal letter with the proposed comprehensive plan fails to state the date(s) that the required public hearing was held prior to transmittal, the Department shall, within five working days of the receipt of the plan, send a notice to the local government of the need to hold a transmittal public hearing within 21 calendar days after the notice is mailed to the local government. The proposed plan will not be processed for review until the Department receives written notification from the local governing body or its designee stating the date that the local governing body held the transmittal public hearing. The review time specified in Section 163.3184, F.S., will not commence until the required written notification is received by the Department.

(3) If the proposed comprehensive plan submittal package does not include the required support documents used in formulating the plan or summaries of the support documentation and the required existing conditions maps, the Department will immediately notify the local government. Failure to provide the required documentation during the review process will result in an objection by the Department and shall be the basis for a determination of not in compliance when there is the lack of such documentation.

(4) When a local government has not submitted the comprehensive plan or all of the element(s) required in Chapter 163, Part II, F.S., and Chapter 9J-5, F.A.C., or does not include one or more items required to be adopted pursuant to paragraph 9J-5.005(1)(c), F.A.C., the Department shall notify the local government regarding the missing plan or element(s), within five working days of the due date established in Section 163.3167, F.S. This notification shall be sent from the Director, Division of Community Planning, to the chief elected official of the local government by certified mail, return receipt requested. A copy of the above referenced notification will be sent by the Department by certified mail, return receipt requested, to the appropriate regional planning council so that the regional planning council may provide at least a 90 calendar day written notice to the local government that they will assume the planning responsibility and shall proceed with preparation of the missing comprehensive plan, element(s) or item(s) by a

specified date.

(a) The notice to the regional planning council shall indicate that the regional planning council has the responsibility to prepare and adopt by rule, pursuant to Chapter 120, F.S., the missing comprehensive plan, element(s) or item(s) or adopt by rule amendment(s) to the existing plan, by a specified date.

(b) Prior to initiating the planning process, the regional planning council shall provide at least a 90 calendar day written notice to any local government whose comprehensive plan, element(s) or item(s) it is required to prepare, and specify the date that it will begin work on the missing comprehensive plan, element(s) or item(s). A copy of this written notice from the regional planning council to the local government shall be mailed simultaneously to the affected local government and to the Florida Department of Community Affairs, Division of Community Planning, Plan Processing Team.

(c) Before the adoption by the regional planning council of the comprehensive plan, element(s) or item(s) pursuant to Section 163.3167(3), F.S., the regional planning council shall transmit ten copies of the proposed comprehensive plan, element(s) or item(s), together with ten copies of support documents which include data and analyses used in formulating the plan, element(s) or item(s) or summaries of the support documents to the local government and the Department in accordance with the provisions of Section 163.3184, F.S. The Department's copies shall be transmitted to the Florida Department of Community Affairs, Division of Community Planning, Plan Processing Team.

(d) The Department shall review and make a written objections, recommendations, and comments report of the comprehensive plan, element(s) or item(s) in accordance with Rules 9J-11.008 and 9J-11.010, F.A.C.

(e) If the local government has not submitted a complete adopted comprehensive plan after 90 calendar days from the due date, pursuant to Section 163.3167, F.S., the Department shall notify the Administrative Commission so that it may impose the sanctions specified in Section 163.3184(11)(a), F.S.

Specific Authority 163.3177(9) FS. Law Implemented 163.3177(9), 163.3184(1)(b), (2), (3)(a), (b), (4), (5), (6)(a), (b), (c), 163.3187(2) FS. History–New 9-22-87, Amended 10-11-88, 11-10-93, 11-6-96, 4-8-99.

9J-11.009 Action Upon Receipt of Proposed Local Government Comprehensive Plan Amendment.

(1) The Department shall review the material submitted to ensure completeness. The Department's determination that the package is complete will occur within five working days from receipt of the proposed amendment package. The Department's completeness determination date is the date the Department determines that the package is complete.

(a) When a proposed plan amendment submittal package does not include all the information required by Rule 9J-11.006, F.A.C., the Department will send a notice to the local government and review agencies listed in subsection 9J-11.009(6), F.A.C., within five working days of receipt of the proposed plan amendment. The Department's notice will identify the additional information required.

(b) The proposed plan amendment will not be processed for review until three copies of the required information is received by the Department with a written statement by the local government that copies of the additional information have also been submitted to the review agencies listed in subsection 9J-11.009(6), F.A.C. The time period to determine whether a review will be done as specified in Sections 163.3184(6)(a) and (b), F.S., will not commence until all required information is transmitted by the local governing body to the Department with a written statement by the local government that it has also transmitted the necessary information to the other agencies.

(2) When a proposed plan amendment submittal package includes all the information required by Rule 9J-11.006, F.A.C., the Department will send a notice to the local government and review agencies listed in subsection 9J-11.009(6), F.A.C., within five working days of receipt of the complete proposed amendment submittal package. The notice to review agencies shall include the date that their comments are due to the Department pursuant to Section 163.3184(4), F.S., and this comment due date shall be based upon the completeness determination date as provided for in subsection 9J-11.009(1), F.A.C. The time period to determine whether a review will be done as specified in Section 163.3184(6)(a), F.S., will begin upon the transmittal by the local governing body to the Department, of a complete amendment submittal package. The transmittal date shall be the United States Mail postmark or other similar official transmittal date of the mail company. Hand delivered documents shall be considered transmitted on the date of receipt by the Division of Community Planning.

(3) If the local government requests a review of the amendment in its transmittal letter, the Department will initiate its review after determination by the Department that the submitted package is complete pursuant to subsection 9J-11.006(1), F.A.C.

(4) If the Department receives a request to review from the appropriate regional planning council or an affected person (within 30 calendar days of transmittal of the proposed amendment) or the Department elects to review the amendment, the Department will notify the local government and review agencies listed in subsection 9J-11.009(6), F.A.C., of its decision to review within 35 calendar days of the Department's completeness determination date as provided for in subsection 9J-11.009(1), F.A.C. An affected person requesting a review must provide as part of their written request, a statement of facts sufficient to show that the person making the request is an affected person, as defined in Section 163.3184(1)(a), F.S. The Department will reject a request to review by an individual if it determines there are insufficient facts to demonstrate that the person is an affected person. The request shall be sent to: Florida Department of Community Affairs, Division of Community Planning, Plan Processing Team.

(5) If no requests are received to review the proposed amendment and the Department elects not to review the amendment, the Department will notify the local government and review agencies listed in subsection 9J-11.009(6), F.A.C., of its decision not to review within 35 calendar days of the Department's completeness determination date as provided for in subsection 9J-11.009(1), F.A.C. Upon receipt of the notification of the decision not to review, the local government may proceed to adopt the amendment.

(6) The local government shall transmit three copies of plans, parts of plan, or plan amendments to the Department and one copy directly to the various agencies and governments, as appropriate, for their review and written response. These agencies and governments may include, but not be limited to, the following:

(a) The appropriate regional planning council;

(b) The appropriate county (municipal plans only);

(c) The Department of Environmental Protection;

(d) The Department of Transportation;

(e) The appropriate water management district(s);

(f) Florida Department of State;

(g) Florida Fish and Wildlife Conservation Commission (county plans only);

(h) The Department of Agriculture and Consumer Services (county plans only);

(i) Office of Educational Facilities of Commissioner of Education (if related to the public school facilities element pursuant to Section 163.3177(12), F.S.);

(j) The commanding officer or designee of each military installation located within, adjacent or proximate to the local government (if the amendment would affect the intensity, density, or use of the land adjacent to or in close proximity to the military installation); and

(k) Office of Tourism, Trade, and Economic Development (if the amendment is related to an area of rural critical economic concern pursuant to Section 163.3187(1)(o), F.S.

(7) In cases where a local government transmits multiple individual amendments that can be clearly and legally separated and distinguished for the purpose of determining whether to review the proposed amendment and the Department pursuant to Rule 9J-11.010, F.A.C., elects to review several of the amendments pursuant to Section 163.3184(3)(d), F.S., and the local government chooses to immediately adopt the remaining amendments not reviewed by the Department, the amendments immediately adopted and any amendments reviewed by the Department which the local government subsequently adopts shall together constitute one amendment cycle for purposes of meeting the twice yearly amendment mandates of Section 163.3187(1), F.S.

(8) Local governments are prohibited from adopting some amendments to their comprehensive plans for failure to comply with the following statutory requirements:

(a) Pursuant to Section 163.3177(3)(b)1., F.S., future land use map amendments may not be adopted if the local government has failed to adopt the annual capital improvements update by December 1 each year beginning 2007, except a local government may adopt emergency amendments pursuant to Section 163.3187(1)(a), F.S.;

(b) Pursuant to Section 163.3177(6)(a), F.S., no amendment may be adopted if the local government has failed to comply with the school siting requirements, except amendments described in Section 163.3187(1)(b), F.S.;

(c) Pursuant to Section 163.3177(12)(j), F.S., amendments which increase residential density may not be adopted if the local government has failed to adopt the public school facility element and enter into an approved interlocal agreement by December 1, 2008;

(d) Pursuant to Section 163.3187(6)(a), F.S., no amendment may be adopted if the local government has failed to adopt its evaluation and appraisal report by the established adoption date, except for amendments described in Section 163.3187(1)(b) or (h), F.S., until such time as the local government submits an adopted evaluation and appraisal report to the Department;

(e) Pursuant to Section 163.3187(6)(c), F.S., no amendment may be adopted if the Department has determined that the adopted evaluation and appraisal report does not sufficiently address the requirements of Section 163.3191, F.S., and the one year period after the initial sufficiency determination has expired until such time as the local government adopts and submits an evaluation and appraisal report that the Department determines is sufficient, except for plan amendments that meet the requirements of Section 163.3187(1)(b), F.S.;

(f) Pursuant to Section 163.3191(10), F.S., no amendment may be adopted if the local government has failed to timely adopt and transmit the evaluation and appraisal report-based amendments after July 1, 2006; and

(g) If local governments are prohibited from amending the comprehensive plan pursuant to paragraphs 9J-11.009(8)(a) through (f), F.A.C., then during the time period of the prohibition, amendments will not be processed by the Department, and will be returned to the local government. In order to secure review thereafter, the local government may readopt and resubmit the amendments in accordance with the requirements of Sections 163.3184, 163.3187, and 163.3189, F.S.

Specific Authority 163.3177(9) FS. Law Implemented 163.3167(2), (3), 163.3175(2), 163.3177(3), (6), (9), (12), 163.3184(2), (3), (4), (5), (6), 163.3187(6), 163.3191 FS. History–New 9-22-87, Amended 11-10-93, 11-6-96, 4-8-99, 1-8-01, 11-24-02, 6-30-05, 4-17-06.

9J-11.010 Review of Proposed Local Government Comprehensive Plan or Proposed Plan Amendment.

(1) If the review is for a plan or if a decision has been made to review a plan amendment under Rule 9J-11.009, F.A.C., the Department shall review each comprehensive plan or amendment to determine whether it is consistent with the requirements of Sections 163.3177, 163.3178, 163.3180, 163.3184, 163.3187, 163.3189 and 163.3191, F.S., Chapter 9J-5, F.A.C., the State Comprehensive Plan and the appropriate strategic regional policy plan.

(2) The Department will consider all comments, objections and recommendations received as it formulates its own response. The Department may incorporate written responses received into its own objections, recommendations and comments report to ensure that the written responses received will be considered by the local government prior to plan or amendment adoption.

(3) The Department, within 60 calendar days of the Department's completeness determination date as provided for in subsection 9J-11.009(1), F.A.C., the Director, Division of Community Planning, or the Director's designee shall send the Department's objections, recommendations and comments report to the local governing body. For the information of the local government, the Department will attach a copy of the written responses received from the reviewing agencies. The Department will send a copy of its objections, recommendations and comments report to the appropriate review agencies specified in subsections 9J-11.009(6) and 9J-11.010(5), F.A.C.

(4) Local governments are encouraged to utilize the informal mediation process established by each regional planning council pursuant to Section 186.509, F.S., to resolve conflicts between the local government and reviewing agencies whose written responses may have resulted in an objection and recommendation by the Department.

(5) Municipalities may review and comment on the comprehensive plans and amendments of adjacent local governments and submit such comments to the Department. The municipalities must file a written request with the governing body of the adjacent local government, requesting a copy of the comprehensive plan or amendment be submitted to the municipality at the same time a copy is submitted to the Department. A copy of this request letter should be sent to the Department so that the Department will be notified that it may receive comments from an adjacent municipality. Municipalities may submit written objections, recommendations and comments to the Department in a timely manner consistent with the submission of recommendations of other review agencies.

(6) In developing comments, objections and recommendations, the reviewing agencies responsibilities shall include:

(a) Review by state agencies and the water management district(s) will relate to the statutory responsibilities of the agencies and will include comments, objections and recommendations regarding those areas required to be addressed in the comprehensive plan by Chapter 9J-5, F.A.C., and Sections 163.3177 and 163.3178, F.S.

(b) The review by the appropriate regional planning agency will be limited to effects on regional resources or facilities identified in the strategic regional policy plan and extrajurisdictional impacts which would be inconsistent with the comprehensive plan of the local government.

(c) The review by the county land planning agency of municipal comprehensive plans and amendments shall be primarily in the context of the relationships and impacts on the county plan. Relationships include the requirements placed upon county services, compatibility of adjacent land uses, and effects on interlocal agreements.

(d) The review by municipalities will be primarily in the context of the relationship and effect on the municipal plan. Relationships include the requirements placed upon municipal services, compatibility of adjacent land uses, and effects on interlocal agreements.

(e) The review by military installations will be primarily in the context of public safety and the effect on the mission of the military installation, including, but not limited to whether the proposed change will be incompatible with the safety and noise standards contained in the Air Installation Compatible Use Zone (AICUZ), or Range Installation Compatible Use Zone (RAICUZ), if applicable; whether the proposed change is incompatible with the Installation Environmental Noise Management Program (IENMP), if applicable; whether the proposed change is incompatible with the findings of the Joint Land Use Study (JLUS) for the area if one has been completed; and whether the proposed change will adversely affect the military installation's mission.

(7) For plan or plan amendments, the agencies listed in subsection 9J-11.009(6), F.A.C., and the public are required by Section 163.3184(4), F.S., to provide a written response to the Department within 30 calendar days as specified in subsection 9J-11.009(2), F.A.C. Such response must be signed by an agency head or authorized individual(s). The written response shall be addressed to the Florida Department of Community Affairs, Division of Community Planning, Plan Processing Team.

Specific Authority 163.3177(9) FS. Law Implemented 163.3175(3), 163.3177(9), (10), 163.3184(1)(b), (6)(a), (b), (c), 163.3189(2) FS. History–New 9-22-87, Amended 11-10-93, 11-6-96, 4-8-99, 11-24-02, 6-30-05, 4-17-06.

9J-11.011 Local Government Adoption of the Comprehensive Plan or Plan Amendment and Submittal for the Compliance Review.

(1) In the case of a compliance agreement comprehensive plan amendment the procedures in Rule 9J-11.0131, F.A.C., shall be followed.

(2) In the case of an adopted amendment that is exempt from State and Regional review, the local government may follow the procedures in Rule 9J-11.015, F.A.C.

(3) In the case of a comprehensive plan submitted pursuant to Section 163.3167(2), F.S., the local government shall have 120 calendar days to adopt, or adopt with changes, the proposed comprehensive plan after the receipt of the objections, recommendations and comments report from the Department pursuant to Section 163.3184(7)(a), F.S. In the case of a proposed amendment other than those submitted pursuant to Section 163.3191, F.S., the local government has 60 calendar days to adopt, adopt with changes, or not adopt the proposed amendment after receipt of the objections, recommendations and comments report from the Department pursuant to Section 163.3184(7)(a), F.S. In the case of a plan amendment submitted pursuant to Section 163.3191, F.S., the local government shall have 120 calendar days to adopt, adopt with changes, or not adopt the proposed amendment after receipt of the objections, recommendations and comments report from the Department pursuant to Section 163.3184(7)(a), F.S.

(4) Public hearings for adoption of plan amendments related to developments of regional impact or a proposed change to a development of regional impact may not be held sooner than 30 days from receipt of the response from the Department pursuant to Section 380.06(6)(b)5., F.S. The local government must consider adoption of a plan amendment related to developments of regional impact and applications for developments of regional impacts at the same hearing, however, the local government must take action separately on the application for development approval or the proposed change to the development of regional impact and on the plan amendments.

(5) The local government shall submit, within ten working days after adoption, three copies of all comprehensive plan and plan amendment materials, of which at least one copy shall be paper and up to two copies may be on CD ROM in Portable Document Format (PDF), including graphic and textual materials and support documents directly to the Florida Department of Community Affairs, Division of Community Planning, Plan Processing Team and one copy directly to the appropriate agencies listed in subsection 9J-11.009(6), F.A.C., and local governments or any other interested parties that have filed a written request with the governing body for a copy of the plan or amendment. The local government must ensure that the review agencies' copy of the adopted plan remains complete by also transmitting copies of each subsequently adopted plan amendment and related documents to review agencies at the time of each adoption.

(a) The local government shall submit a transmittal letter signed by the chief elected official or the person designated by the local government specifying the following:

1. The newspaper, meeting the size and circulation requirements of Section 163.3184(15)(e), F.S., in which the Department should publish the required Notice of Intent pursuant to Section 163.3184(8)(b), F.S.;

2. The adoption ordinance number(s) and adoption date of the plan or amendment package;

3. Certification that the adopted amendment, including data and analysis, has been sent to the appropriate agencies listed in subsection 9J-11.009(6), F.A.C.;

4. If the plan amendment is unchanged and was not subject to review or objections, a statement requesting expedited publication of notice of intent. The transmittal letter shall include the following language: The comprehensive plan amendment package was adopted without revision from the proposed amendment package and no objections were raised by an affected party, the amendment was not reviewed by the Department or if reviewed no objections were raised. Based upon these facts, we request expedited publication of a Notice of Intent pursuant to Section 163.3184(8), F.S.

5. A summary of the package which shall include:

a. A listing of additional changes made in the adopted plan or amendment which were not previously reviewed by the Department. This listing shall include the identification of the specific portions that were changed with reference to appropriate pages. New text in the plan or amendment should be underlined and items deleted should be stricken through.

b. A listing of findings of the local governing body, if any, which were not included in the adoption ordinance and which provided the basis of the adoption of a proposed plan or plan amendment or the determination not to adopt the proposed plan amendment.

c. A statement indicating the relationship of the additional changes not previously reviewed by the Department to the objections, recommendations and comments report.

d. A listing of proposed amendments previously reviewed by the Department in the current cycle of amendments which were not adopted by the local government.

e. A copy of any comments from a military installation identifying a possible adverse impact from the proposed amendment together with the local government's response to those comments.

f. If package contains a future land use map amendment adopted after December 1, 2007, a statement indicating the date that the annual capital improvement element update has been adopted and submitted along with the summary of de minimis impact records.

6. The name, title, address, telephone number, facsimile number, and e-mail address, if any, of the person for the local government who is familiar with the adopted amendment(s) and is responsible for ensuring that the materials transmitted are complete.

(b) The adopted amendment package shall include the following:

1. All the adopted text in strike-through and underline format or similar easily identifiable format identifying the new text that has been adopted;

2. In the case of a future land use map plan amendment, the adopted future land use map reflecting the changes made when adopted. The map amendments shall be submitted on maps that indicate the ordinance number and date of each amendment update. Also, it is not mandatory that completely reprinted future conditions maps be provided unless major, jurisdiction-wide changes are made. Appropriately labeled and cross-referenced maps may be acceptable;

3. A copy of the executed ordinance adopting the comprehensive plan or amendment(s);

4. A copy of the sign-in forms which legibly indicate the name and address of individuals who expressed a desire to receive a courtesy information statement at the proposed and adoption hearings pursuant to Section 163.3184(15)(c), F.S. In the event no individuals sign up to receive a courtesy information statement, indicate on the sign-in form that no requests were made and include the form in the transmittal package;

5. Data and analysis. Each adopted plan or plan amendment must be supported by data and analysis in accordance with subsection 9J-5.005(2), F.A.C. If the original data and analysis or the data and analysis of a previous amendment or data and analysis submitted with the material transmitted pursuant to paragraphs 9J-11.004(2)(c) and 9J-11.006(1)(b) or Rule 9J-11.007, F.A.C., support the amendment, no additional data and analysis is required to be submitted to the Department unless the previously submitted data is no longer the best available existing data. The newly submitted data and analysis must reflect the best available data and analysis at the time the adopted amendment is submitted to the Department. If a local government relies on original plan data and analysis or the data and analysis of a previous amendment to support an amendment, it shall provide to the Department, at the time of the adopted submittal, a reference to the specific portions of the previously submitted data and analysis on which the local government relies to support the material.

6. Copies of the comprehensive plan pages that contain the newly adopted comprehensive plan amendments replacing the existing comprehensive plan pages in a manner that will update the plan and incorporate all plan amendments. To avoid reprinting

all pages in the plan, it is permissible to number pages that contain additions or deletions to be inserted in the plan with the appropriate page number followed by decimals or some other equivalent sub-numbering system. These pages shall include the amendment ordinance number and adoption dates.

7. A new cumulative table of contents that includes all comprehensive plan amendments shall be submitted with each plan amendment package, and it shall indicate the revision date and ordinance numbers. The table of contents page(s) shall include the most recent amendment date.

(6) In the case of a comprehensive plan or amendment submitted pursuant to Section 163.3167(3), F.S., the provisions of Section 163.3181, F.S., shall apply to the regional planning council as if it were the local governing body, except that the regional planning council shall submit a copy of the rule adopting the comprehensive plan, element or amendment.

(7) In the case where the local government makes the determination not to adopt a proposed plan amendment, a letter must be sent to the Department within five working days to inform the Department of this decision. This letter shall be sent to the Florida Department of Community Affairs, Division of Community Planning, Plan Processing Team.

(8) In the case where the local government amends the capital improvement element, the following information will be required:

(a) If the local government adopts corrections and modifications of the capital improvements element concerning costs, revenue sources, or acceptance of facilities pursuant to dedications that are consistent with the plan pursuant to Section 163.3177(3)(b), F.S., a copy of the executed ordinance shall be submitted to the Department within ten working days after adoption. Copies of the referenced executed ordinances in this section of Rule 9J-11.011, F.A.C., shall be sent to the Florida Department of Community Affairs, Division of Community Planning, Plan Processing Team and will not be subject to a compliance review.

(b) If the amendment is adopted to meet the annual update of the schedule or to eliminate, defer, or delay the construction for any facility listed in the 5-year schedule pursuant to Section 163.3177(3)(b), F.S., the local government must submit a copy of the executed ordinance, the amendment in strike thru and underline format, and a summary of the de minimis impact records pursuant to Section 163.3180(6), F.S.

(9) Adopted plan amendments to plans which have been found to be "in compliance," as that term is defined in Section 163.3184, F.S., shall not become effective until the Department issues a final order determining the adopted amendment to be "in compliance," or until the Administration Commission issues a final order determining the adopted amendment to be in compliance in accordance with Section 163.3184(10), F.S. The Department's notice of intent to find an amendment in compliance shall become an issued final order determining the adopted amendment to be in compliance if no petition challenging the amendment is filed with the Department within 21 days of the date of publication of the notice of intent.

(10) Local governments with a plan in compliance are bound by the effective date provisions of Section 163.3189, F.S. They shall include the following language in the adoption ordinance for plan amendments other than adopted amendments that are exempt from State and Regional review:

The effective date of this plan amendment shall be the date a final order is issued by the Department of Community Affairs or Administration Commission finding the amendment in compliance in accordance with Section 163.3184(1)(b), F.S., whichever is applicable. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before it has become effective. If a final order of noncompliance is issued by the Administration Commission, this amendment may nevertheless be made effective by adoption of a resolution affirming its effective status, a copy of which resolution shall be sent to the Florida Department of Community Affairs, Division of Community Planning, Plan Processing Team.

An adopted amendment whose effective date is delayed by law shall be considered part of the adopted plan until determined to be not in compliance by final order of the Administration Commission. Then, it shall no longer be part of the adopted plan unless the local government adopts a resolution affirming its effectiveness in the manner provided by law.

Specific Authority 163.3177(9) FS. Law Implemented 163.3167(3), 163.3175(4), 163.3177(3), (9), 163.3184(1)(b), (2), (6), (7), (15), (16), 163.3187(1), 163.3189, 163.3191, 380.06(6) FS. History–New 9-22-87, Amended 10-11-88, 11-10-93, 11-6-96, 4-8-99, 1-8-01, 11-24-02, 6-30-05, 4-17-06.

9J-11.012 Compliance Review and Notice of Intent.

(1) Upon receipt of the adopted plan or amendment, the Department shall send a letter acknowledging receipt and requesting any missing documentation. Upon receipt of the complete plan or amendment package pursuant to subsection 9J-11.011(5), F.A.C., the Department shall review the plan or amendment to determine compliance and shall issue a Notice of Intent to find the plan or

amendment:

(a) In compliance within 20 calendar days after receipt of the complete adopted amendment, if the adopted transmittal letter correctly states that the plan amendment is unchanged and was not subject of review or objections pursuant to Section 163.3184(7)(b), F.S.; or

(b) In compliance or not in compliance within 45 calendar days after receipt of the complete adopted amendment, unless the amendment is the result of a compliance agreement entered into pursuant to Section 163.3184(16), F.S., in which case the time period for review and determination is 30 days. The review period shall run from the determination of completeness pursuant to subsection 9J-11.012(1), F.A.C. If the Department did not, and was not, requested to review the proposed plan or plan amendment, the Department's review must be based solely on the adopted plan or plan amendment.

(2) The Department will publish a Notice of Intent in a newspaper of general circulation in the local government's jurisdiction from which the plan or element originates in the manner required by Section 163.3184(8)(c), F.S., and will include but not be limited to the following information:

(a) Name of local government;

(b) Identification of the comprehensive plan or plan amendment(s) to which the notice refers;

(c) Whether the plan or amendment is in compliance or not in compliance;

(d) Location where plan or plan amendments, together with the Department's comments, objections, and recommendations, are available for public inspection; and

(e) Rights of affected person(s).

(3) A copy of the Notice of Intent will be mailed to the local government, the review agencies listed in subsection 9J-11.009(6), F.A.C., and to persons who request a copy of the notice. Requests for a copy of a Notice of Intent shall be in writing and shall be sent directly to the Florida Department of Community Affairs, Division of Community Planning, Plan Processing Team and shall specify the plan or amendment by the name of the local government and by ordinance number or other formal designation.

(4) The Notice of Intent shall be issued by the Director of the Division of Community Planning, Department of Community Affairs or authorized designee.

(5) The Department may combine notices of intent to find plans or plan amendments for more than one local government in a single advertisement.

(6) If a Notice of Intent is issued to find the adopted plan or amendment not in compliance, the Department will forward a copy of the Notice of Intent to the Division of Administrative Hearings, Department of Management Services, requesting a hearing. During the review period provided in subsection 9J-11.012(1), F.A.C., the Department shall issue a written Statement of Intent describing how each portion of a comprehensive plan or plan amendment alleged to be not in compliance is not consistent with one or more provisions of Section 163.3177, F.S., when local government adopts an educational facilities element, Sections 163.3178, 163.3180, 163.3191, and 163.3245, F.S., the state comprehensive plan, the appropriate strategic regional policy plan, or Chapter 9J-5, F.A.C., and a statement of remedial actions that the local government may complete in order to bring the plan into compliance. A copy of the Statement of Intent shall be mailed to the local government and to persons who requested a copy of the Notice of Intent. The Department shall file a petition requesting an administrative hearing and relief with the Division of Administrative Hearings. The petition shall incorporate the issues contained in the Statement of Intent, and the Statement of Intent and the Notice of Intent shall be filed with the petition. The administrative law judge shall submit the recommended order to the Administration Commission for final agency action.

(7) If a Notice of Intent is issued to find the adopted plan or amendment in compliance, any affected person, within 21 calendar days after the publication of notice pursuant to subsection 9J-11.012(4), F.A.C., may file a petition challenging the determination of compliance with the Department pursuant to Section 120.57, F.S. Subsequent to the Notice of Intent and after the matter has been forwarded to the Division of Administrative Hearings pursuant to subsection 163.3184(8) or (10), F.S., the local government proposing the amendment, or any party to the proceeding may demand informal mediation or expeditious resolution of the amendment proceeding by serving written notice on all parties to the proceeding and the assigned administrative law judge.

(a) The petition shall be filed with the Agency Clerk, Department of Community Affairs pursuant to the provisions of Rule 28-106.201, F.A.C.

(b) If the Department determines that the petition filed by an affected person is sufficient, the Department shall forward the petition to the Division of Administrative Hearings, Department of Management Services, within 15 days of the receipt of the petition for further proceedings. A copy of the transmittal letter shall be sent to the petitioner, the local government, and any

identified owner of the property.

(c) Failure to file a timely petition within the 21 calendar days after the publication of the Notice of Intent pursuant to subsection 9J-11.012(4), F.A.C., shall constitute a waiver of any right to request an administrative proceeding under Section 120.57, F.S.

(d) If a petition is filed that does not substantially comply with the requirements of Rule 28-106.201, F.A.C., the Department shall issue an order dismissing the petition with leave to file an amended petition complying with the requirements of this rule within 15 days of service of the order. If an amended petition complying with this rule is not filed within 15 days of service of the order, the petitioner's right to a proceeding under Section 120.57, F.S., is waived.

(e) If no petition complying with the requirements of this rule is filed, the Notice of Intent shall become final agency action.

(f) After the hearing pursuant to Section 163.3184(9), F.S., the administrative law judge shall mail the Recommended Order to the Agency Clerk, Department of Community Affairs.

(g) Within ten days from the date of receipt of the Recommended Order by the Agency Clerk of the Department, parties to the proceeding may file written Exceptions to the Recommended Order with the Agency Clerk of the Department, with service of copies on all parties. Exceptions not filed with the Agency Clerk within the ten days shall be rejected. Exceptions shall state, with particularity, the basis for asserting that the administrative law judge erred in making or omitting specific findings of fact, conclusions of law, or a recommendation. Any party may serve a Response to Exceptions within ten (10) days of service of the Exceptions. The Department shall issue a final order within 30 days after receipt of the Recommended Order by the Agency Clerk if the Department determines that the plan or plan amendment is in compliance. If the Department determines that the plan or plan amendment is not in compliance, the Department shall submit, within 30 days after receipt, the Recommended Order to the Administration Commission for final agency action.

Specific Authority 163.3177(9) FS. Law Implemented 163.3177(9), 163.3184(8), (9), (10) FS. History–New 9-22-87, Amended 10-11-88, 11-10-93, 11-6-96, 7-21-97, 4-8-99, 1-8-01, 11-24-02, 4-17-06.

9J-11.015 Submittal Requirements for Adopted Amendments that Are Exempt from State and Regional Review.

(1) The local government shall submit, within ten working days after adoption, one copy of all plan amendment materials, which may be on CD ROM in Portable Document Format (PDF), or on paper, including graphic and textual materials and support documents directly to the Florida Department of Community Affairs, Division of Community Planning, Plan Processing Team.

(a) The chief elected official or designee shall sign a letter transmitting the adopted amendment to the Department. The transmittal letter shall specify the following:

1. Whether the adopted amendment is exempt from State and Regional Review, and the facts and circumstances that cause the amendment to be considered as one of the following:

a. A map amendment directly related to proposed small scale development activities that meet the criteria of Section 163.3187(1)(c), F.S.;

b. A map amendment solely to property within an urban service boundary which meets the criteria of Section 163.3184(17), F.S.;

c. A map amendment solely to property within a designated urban infill and redevelopment area pursuant to Section 163.3184(18), F.S.; and

d. A plan amendment within an area certified pursuant to Section 163.3246, F.S.

2. The date the adoption public hearing was held;

3. The name, title, address, telephone number, facsimile number, and e-mail address, if any, of the person for the local government who is familiar with the adopted amendment(s) and is responsible for ensuring that the materials transmitted are complete.

4. For small scale development amendments adopted pursuant to Section 163.3187(1)(c), F.S., include the following information:

a. The number of acres for the submitted amendment and the cumulative total number of acres for small scale development amendments for the calendar year that the local government has approved;

b. Whether the amendment involves the same property that was granted another change within the prior 12 months;

c. Whether the amendment involves the same owner's property within 200 feet that was granted a change with the prior 12

months;

d. Whether the proposed amendment involves a text change;

e. Whether the amendment is within an area of critical state concern; and

f. The residential land use density before and after the adopted change.

(b) The adopted amendment package shall include:

1. One copy of the future land use map depicting the newly adopted land use designation and the boundaries and location of the subject property in relationship to the surrounding street and thoroughfare network;

2. A copy of the executed ordinance(s) adopting the amendment that has been signed by the chief elected official;

3. A copy of the public hearing notice;

4. If amendment is a small scale development amendment within a rural area of critical economic concern and adopted pursuant to Section 163.3187(1)(c)4., F.S., a copy of the letter to Office of Tourism, Trade, and Economic Development certifying and explaining how the plan amendment meets the objectives of the executive order issued under Section 288.0656(7), F.S.;

5. A completed copy of Form RPM-BSP-Exempt Review, effective 4-17-06, incorporated by reference with the amendment. Copies of Form RPM-BSP-Exempt Review may be obtained from the Department of Community Affairs, Division of Community Planning, Plan Processing Team and from the Department's web site.

(2) The local governing body shall transmit a copy of the adopted amendment to the appropriate regional planning council, the Office of Tourism, Trade, and Economic Development (if the amendment is related to an area of rural critical economic concern pursuant to Section 163.3187(1)(c)4., F.S.) and other local government or governmental agencies in the state that have filed a written request with the governing body for a copy of the adopted amendment concurrently with the transmittal to the Department.

Specific Authority 163.3177(9) FS. Law Implemented 163.3184(17), (18), 163.3187, 163.3246(9)(a) FS. History–New 11-10-93, Amended 11-6-96, 4-8-99, 6-30-05, 4-17-06.

9J-11.018 Evaluation and Appraisal Reports and Evaluation and Appraisal Report-Based Amendments.

(1) PURPOSE AND INTENT. The procedures and criteria in this section shall guide the preparation, transmittal, adoption and sufficiency review of local government comprehensive plan evaluation and appraisal reports and evaluation and appraisal report-based plan amendments submitted pursuant to Sections 163.3191, 163.3184(5), F.S., and Chapters 9J-5 and 9J-33, F.A.C.

(2) TRANSMITTAL REQUIREMENTS FOR PROPOSED EVALUATION AND APPRAISAL REPORT.

(a) If local government elects to submit a proposed Evaluation and Appraisal Report 90 days prior to the evaluation and appraisal report schedule, the local planning agency shall prepare and transmit a proposed evaluation and appraisal report to the local governing body for review and contemporaneously send a copy to the Department, which may be on CD ROM in Portable Document Format (PDF) or on paper, and each review agency as listed under subsection 9J-11.009(6), F.A.C. The local planning agency shall submit a transmittal letter which specifies the date or dates on which the local planning agency held the public hearing and the date that the proposed evaluation and appraisal report was transmitted to each review agency as listed under subsection 9J-11.009(6), F.A.C. At a minimum, the format and content of the proposed report will include a table of contents; numbered pages; element headings; section headings within elements; a list of included tables, maps and figures; titles and sources for all included tables, maps and figures; where applicable, maps shall include major natural and man-made geographic features, city, county and state lines; maps shall contain a legend indicating a north arrow, map scale and date; a preparation date; and the name of the preparer.

(b) The proposed evaluation and appraisal report will assess and evaluate the success or failure of the local government's adopted comprehensive plan, including the validity of the projections, the realization of the goals and objectives, and implementation of the plan's policies. The proposed evaluation and appraisal report shall also address changes in local conditions; the effect on the comprehensive plan of changes to: the state comprehensive plan, Chapter 163, Part II, F.S., Chapter 9J-5, F.A.C., and the appropriate strategic regional policy plan; suggest changes needed to update the comprehensive plan, elements, or portions thereof; suggest reformulated or additional goals, objectives, policies, maps, schedules, and procedures; and otherwise address the requirements specified in Section 163.3191, F.S., and this rule.

(c) The local planning agency shall prepare its proposed report in conformity with the public participation procedures that were adopted by the local planning agency in accordance with the public participation requirements of Section 163.3181, F.S.

(d) The appropriate reviewing agencies as listed under subsection 9J-11.009(6), F.A.C., must provide written comments to the

Department and the local government within 30 days after receipt of the proposed report pursuant to Section 163.3191(5), F.S.

(e) Within 30 days of receipt of a complete proposed evaluation and appraisal report the Department shall review the proposed report and submit comments to the local government.

(3) SUBMITTAL REQUIREMENTS FOR ADOPTED EVALUATION AND APPRAISAL REPORT.

(a) Within 90 days after receiving the proposed evaluation and appraisal report from the local planning agency, the local governing body shall adopt, or adopt with changes, the proposed evaluation and appraisal report. Within ten working days of adoption of the report, the local governing body shall submit three copies of the adopted report, of which at least one copy shall be paper and up to two copies may be on CD ROM in Portable Document Format (PDF), to the Department. If a proposed report was provided, the local government shall provide a copy of the report to the reviewing agencies which provided comments for the proposed report to the local government. If a proposed report was not provided pursuant to Section 163.3191(5), F.S., the local government shall provide a copy of the report to all reviewing agencies as listed under subsection 9J-11.009(6), F.A.C., including adjacent local governments.

(b) The adopted evaluation and appraisal report will address the requirements of paragraph 9J-11.018(2)(b), F.A.C., and shall include a schedule for adoption of evaluation and appraisal report-based amendments.

(c) The local governing body shall adopt, or adopt with changes, the evaluation and appraisal report in conformity with the public participation procedures in accordance with the public participation requirements of Section 163.3181, F.S.

(d) All evaluation and appraisal report materials, including graphic and textual materials, maps, support documents including data and analysis, including a submittal letter from the designee of the local governing body stating the dates on which the local government held the requisite public hearings, and a copy of the adoption ordinance of resolution shall be submitted directly to: Florida Department of Community Affairs Division of Community Planning, Plan Processing Team-EAR REVIEW.

(4) CRITERIA FOR DETERMINING SUFFICIENCY OF ADOPTED EVALUATION AND APPRAISAL REPORTS.

(a) Within 60 days of receipt of a complete adopted evaluation and appraisal report, the Department shall review the adopted report for preliminary sufficiency. A final sufficiency determination shall be completed within 90 days of receipt. A sufficiency review shall not be a compliance review, but shall be a determination that:

1. The report was adopted and submitted timely; and

2. The adopted report addresses all the requisite provisions of Section 163.3191, F.S., and this rule.

(b) Upon completion of its sufficiency review, the Department will notify in writing the local governing body of its sufficiency determination.

(5) SUBMITTAL REQUIREMENTS FOR PROPOSED AND ADOPTED EVALUATION AND APPRAISAL REPORT-BASED AMENDMENTS. The local government shall proceed with adoption of plan amendments necessary to implement the recommendations in the evaluation and appraisal report once the Department has determined that the adopted report sufficiently addresses the requisite provisions of Section 163.3191, F.S., and this rule.

(a) The amendments to implement the evaluation and appraisal report recommendations shall be adopted during a single amendment cycle pursuant to Section 163.3191(10), F.S., within 18 months after the report is determined to be sufficient by the Department, unless a six-month extension is requested in writing by the local government. The extension request will be granted if the request demonstrates why the local government is unable to meet the original 18 month adoption time frame. Upon request an additional six month extension will be granted if the local government demonstrates that the additional extension will result in greater coordination between transportation and land use for the purposes of improving Florida's transportation system.

(b) All evaluation and appraisal report-based plan amendments shall be submitted in accordance with the procedures contained in Sections 163.3184, 163.3187, and 163.3189, F.S., and Rules 9J-11.006 and 9J-11.011, F.A.C., and shall be subject to compliance review as that term is defined in Section 163.3184(1)(b), F.S.

(6) SUBMITTAL OF COMPLETE UPDATED PLAN. The local government shall submit a complete copy of the updated comprehensive plan, which may be on CD ROM in Portable Document Format (PDF), or on paper, within 6 months after the effective date of the evaluation and appraisal report-based amendments.

Specific Authority 163.3177(9), 163.3191(10), (12) FS. Law Implemented 163.3187(6), 163.3191 FS. History–New 11-6-96, Amended 4-8-99, 11-24-02, 4-17-06.

9J-11.019 Action to Require Local Government to Submit Land Development Regulations for Review.

(1) The Department shall require a local government to submit one or more land development regulations for review if it has reasonable grounds to believe that the local government has completely failed to adopt one or more of the regulations required by Section 163.3202, F.S.

(2) The Department shall consider that reasonable grounds exist only if the Chief, Bureau of Local Planning, Department of Community Affairs, Division of Community Planning, has received a letter stating facts which show that the local government has completely failed to adopt one or more of the regulations required by Section 163.3202(2), F.S., within one year after submission of its revised comprehensive plan for review pursuant to Section 163.3167(2), F.S., or if the Department has received a letter stating facts which show that the local government has totally failed to adopt one or more of the regulations required by Section 163.3202, F.S. The letter shall include the name, address, telephone number and signature of the sender and shall provide any relevant background documentation and specific reasons for the assertion that the required regulations have not been adopted.

(3) If the Department has reasonable grounds to believe that a local government has completely failed to adopt one or more of the land development regulations required by Section 163.3202, F.S., the Department shall mail a certified letter, return receipt requested, to the chief local elected official requiring the local government to transmit two copies of whatever land development regulations have been adopted, including regulations of other agencies if incorporated into the local government's development approval system, to the Chief, Bureau of Local Planning, Department of Community Affairs, Division of Community Planning and Management, within 30 calendar days from receipt of the letter from the Department. The land development regulations submitted must include copies of any separate adopting or enabling legislation. All copies of regulations and legislation must be certified as true and correct copies of the originals by the city or county clerk.

(4) If the local government has not adopted the required land development regulations, it shall send a letter to the Chief, Bureau of Local Planning, Department of Community Affairs, Division of Community Planning and Management, within 30 calendar days from receipt of the letter from the Department indicating that the regulations have not been adopted. The letter shall state what actions the local government has already taken to develop and adopt the required regulations and shall include a schedule approved by formal action of the local governing body for adoption of the regulations. The schedule must provide for the adoption of the required regulations within 120 calendar days from receipt of the Department's initial letter requesting copies of the regulations unless the Department agrees to refrain from taking further action for an additional period of time during the 120 day period. If the local government requests that the Department refrain from taking further action, the Department will respond to that request within 14 calendar days of receipt of the request. The Department shall not agree to refrain from taking further action for an additional period of time unless there is substantial evidence that the local government is unable to adopt the regulations within the 120 day period.

(5) If the local government does not provide to the Department copies of the land development regulations in question or a letter and approved schedule stating the local government will adopt the regulations within the 120 days agreed to by the Department, the Department will institute an action in circuit court to require submission or adoption of these regulations, if they have not been adopted. The Department will also institute such an action if the local government fails to adopt the regulations in accordance with the schedule it provides to the Department.

Specific Authority 163.3202(5) FS. Law Implemented 163.3202 FS. History–New 11-6-96, Amended 4-8-99, 11-24-02.

9J-11.020 Action to Review Land Development Regulations.

(1) The Department shall have 30 calendar days from receipt of the local government's land development regulations to determine whether the local government has completely failed to adopt the regulations required by Section 163.3202, F.S. The Department shall consult with appropriate local government officials during this period to assure that the local government has opportunities to discuss any of the regulations in question.

(2) The Department shall review the submitted regulations to determine whether the regulations that are required by Section 163.3202(2), F.S., have been adopted. The review shall be for the sole purpose of determining whether or not the required regulations have been adopted, and shall not address the consistency of the regulations with the plan.

(3) The Department shall review regulations of any other agency utilized as an integral part of the development approval process and incorporated into the single land development code.

(4) If the Department determines that the local government has adopted all of the required regulations, the Department will

notify the chief local elected official and initiating party in writing within 30 calendar days of the Department's receipt of the regulations from the local government.

Specific Authority 163.3202(5) FS. Law Implemented 163.3202 FS. History–New 11-6-96, Amended 4-8-99, 11-24-02, 6-30-05.

9J-11.021 Action if Local Government Has Failed to Adopt the Required Land Development Regulations.

(1) If the Department determines that the local government has completely failed to adopt one or more of the land development regulations required by Section 163.3202, F.S., the Department will notify the chief local elected official and initiating party in writing within 30 calendar days of receipt of the regulations for review from the local government. The letter to the local government shall be certified, return receipt requested.

(2) In its notification letter, the Department will specify which of the required regulations have not been adopted and the justification for the Department's determination.

(3) The local government shall have 90 calendar days from receipt of the Department's notification letter to adopt the required regulations, unless the Department agrees to refrain from taking further action for an additional period of time during the 90 day period. If the local government requests that the Department agree to refrain from taking further action for an additional period of time, the Department will respond to that request within 14 calendar days of receipt of the request. Every request that the Department refrain from taking further action must include a schedule approved by formal action of the local government that provides for the adoption of the required regulations during the extension period. The Department shall not agree to refrain from taking further action for an additional period of time unless there is substantial evidence that the local government is unable to adopt the regulations within the 90 day period. Upon adoption, the local government shall submit two copies of the required regulations, including copies of any separate adopting or enabling legislation, to the Chief, Bureau of Local Planning, Department of Community Affairs, Division of Community Planning. All copies of regulations and legislation must be certified as true and correct copies of the originals by the city or county clerk.

(4) The Department shall review these resubmitted regulations within 30 calendar days of receipt, according to the procedures and criteria in Rule 9J-11.020, F.A.C.

(5) If, after the regulations are resubmitted, the Department determines that the local government has completely failed to adopt any one or more of the required regulations, the Department will institute an action in circuit court to require adoption of these regulations.

(6) If the Department does not receive the regulations pursuant to subsection 9J-11.021(3), F.A.C., within 90 calendar days it will institute an action in circuit court to require adoption of the required regulations.

Specific Authority 163.3202(5) FS. Law Implemented 163.3202 FS. History–New 11-6-96, Amended 4-8-99.

9J-11.022 Submittal Requirements for Public Schools Interlocal Agreement and Amended Agreements.

(1) PURPOSE AND INTENT. This section shall guide the preparation, transmittal, adoption and consistency review of public schools interlocal agreement submitted pursuant to Section 163.31777, F.S.

(2) SUBMITTAL REQUIREMENTS FOR PUBLIC SCHOOLS INTERLOCAL AGREEMENT AND AMENDED AGREEMENTS.

(a) The county and municipalities located within the geographic area of a school district must submit the interlocal agreement required by Section 163.31777, F.S., in accordance with the submission schedule published by the state planning agency. A draft proposed interlocal agreement may be submitted to the Department for informal review.

(b) The local government shall submit three copies, of which at least one copy shall be paper and up to two copies may be on CD ROM in Portable Document Format (PDF), of the executed interlocal agreement or amended agreement to the Department, one copy to the Office of Educational Facilities and SMART Schools Clearinghouse.

(c) For each executed interlocal agreement or amended agreement submittal package, the local governing body shall submit:

1. A transmittal letter from the local government or its designee which shall specify the following:

a. The date the interlocal agreement or amended agreement was executed;

b. The parties executing the agreement;

c. A summary of any waivers which have been granted by the Department pursuant to Section 163.31777(1)(c), F.S.;

d. Certification that the interlocal agreement or amended agreement has been sent to the Office of Educational Facilities and SMART Schools Clearinghouse;

e. The name, title, address, telephone number, facsimile number, and e-mail address, if any, of the local government official or authorized agent who is familiar with the interlocal agreement or amended agreement and is responsible for ensuring that the materials transmitted are complete.

2. A copy of the executed interlocal agreement or amended agreement.

(d) Amendments to the public schools interlocal agreements shall be submitted pursuant to this section, and shall be transmitted to the Department within 30 days of the amended agreement's execution date.

(3) ACTION UPON NON-RECEIPT OF PUBLIC SCHOOL INTERLOCAL AGREEMENT OR AMENDED AGREEMENT. If the local government's executed interlocal agreement is not timely submitted to the Department for review, the Department shall, within 15 working days after the deadline for submittal, issue to the local government and the district school board a Notice to Show Cause why sanctions should not be imposed for failure to submit an executed interlocal agreement by the deadline established by the Department.

(4) ACTION UPON RECEIPT OF PUBLIC SCHOOLS INTERLOCAL AGREEMENT OR AMENDED AGREEMENT.

(a) The Department shall review the material submitted to ensure that all the applicable materials are included in the submittal package submitted for review. The Department will send a notification to the local government upon submission of a complete submittal.

(b) If the interlocal agreement or amended agreement submittal package does not include the required information listed in subsection 9J-11.022(2), F.A.C., the Department will immediately notify the local government of the deficient items.

(c) The Office of Educational Facilities and SMART Schools Clearinghouse shall submit any comments or concerns regarding the executed interlocal agreement or amended agreement to the Department within 30 days after receipt of the executed interlocal agreement or amended agreement.

(d) The Department shall review the executed interlocal agreement or amended agreement to determine whether it is consistent with the requirements of Section 163.31777(2), F.S., the adopted local government comprehensive plan and other requirements of law. Within 60 days after receipt, the Department shall publish a notice of intent in the Florida Administrative Weekly and shall post a copy of the notice on the Department's internet site stating whether the interlocal agreement or amended agreement is consistent or inconsistent.

(e) An affected person, as defined in Section 163.3184(1)(a), F.S., has standing to initiate an administrative proceeding challenging the Department's notice.

(f) If the Department enters a final order finding that the executed interlocal agreement or amended agreement is inconsistent with the requirements of Section 163.31777(2), F.S., the Department shall forward it to the Administration Commission, which may impose sanctions against the local government pursuant to Section 163.3184(11), F.S., and may impose sanctions against the district school board by directing the Department of Education to withhold from the district school board an equivalent amount of funds for school construction available pursuant to Sections 235.187, 235.216, 235.2195 and 235.42, F.S.

Specific Authority 163.31777 FS. Law Implemented 163.31777 FS. History–New 11-24-02, Amended 4-17-06.

9J-11.0131 Local Government Adoption of Comprehensive Plan Compliance Agreement Amendment(s) and Transmittal to the Department.

(1) Compliance agreement plan amendment(s) are exempt from the requirements of Rules 9J-11.006 through 9J-11.010, F.A.C.

(2) The local government shall hold a single adoption public hearing pursuant to the following requirements:

(a) The public hearing shall be held on a weekday approximately five days after the public hearing advertisement.

(b) The public hearing advertisement shall state the date, time, place of the meeting, the subject of the meeting, and the place or places within the boundaries of the local government where the compliance agreement plan amendment(s) may be inspected by the public. The advertisement shall also advise that interested parties may appear at the meeting to be heard regarding the adoption of the compliance agreement plan amendment.

(c) The public hearing advertisement shall be published in a newspaper of general circulation in the local government jurisdiction. The advertisement shall meet the requirements of Section 163.3184(15)(e), F.S.

(3) Within ten working days after the local government has adopted the compliance agreement plan amendment(s), the local

government shall submit to the Department a complete compliance agreement plan amendment(s) package consisting of a transmittal cover letter signed by the chief elected official indicating compliance with paragraphs 9J-11.0131(2)(a), (b) and (c), F.A.C., the executed ordinance(s) adopting the compliance agreement plan amendment(s) and three copies of the compliance agreement plan amendment(s), of which at least one copy shall be paper and up to two copies may be on CD ROM in Portable Document Format (PDF). This material shall be sent directly to the Florida Department of Community Affairs, Division of Community Planning, Plan Processing Team. The local government shall also submit one copy of the adopted compliance agreement plan amendment(s) to the appropriate regional planning councils, local governments or government agency in the state that has filed a written request and intervenors as indicated in Section 163.3184(16)(d), F.S.

Specific Authority 163.3177(9) FS. Law Implemented 163.3184(16)(d) FS. History–New 11-10-93, Amended 11-6-96, 4-8-99, 11-24-02, 4-17-06.

Appendix D

FAC Chapter 14-94

APPENDIX
FAC 14-94
TABLE OF CONTENTS

14-94.001 Purpose. 1
14-94.002 Definitions. 1
14-94.003 Statewide Minimum Level of Service Standards. 3

14-94.001 Purpose.

(1) The purpose of this rule chapter is to establish statewide minimum level of service standards to be used in the planning and operation of the State Highway System (SHS), roadway facilities on the Strategic Intermodal System (SIS), the Florida Intrastate Highway System (FIHS), and roadway facilities funded in accordance with Section 339.2819, F.S. which creates the Transportation Regional Incentive Program (TRIP). This rule chapter is intended to promote public safety and general welfare, ensure the mobility of people and goods, and preserve the facilities on the SHS, SIS, and facilities funded by the TRIP. The minimum level of service standards for the SIS, FIHS, and facilities funded by the TRIP will be used by the Department in the review of local government comprehensive plans, assessing impacts related to developments of regional impact, and assessing other developments affecting the SIS, FIHS, and roadways funded by the TRIP. The minimum level of service standards for the SIS, FIHS, and roadways funded by the TRIP will be used by local governments for complying with applicable provisions of Section 163.3180, F.S.

(2) This rule chapter does not supersede or negate the provisions of Chapter 9J-5, F.A.C., pertaining to the preparation and adoption of local comprehensive plans or plan amendments by local governments.

Specific Authority 163.3180(10), 344.044(2) FS. Law Implemented 163.3180(10), 163.3184(4), 334.03, 334.044(10)(a), (12), (19), 339.155(2), 339.2819, 339.61-.64 FS. History–New 4-14-92, Amended 5-8-06.

14-94.002 Definitions.

As used in this rule chapter, the following definitions apply:

(1) "Communities" means incorporated places outside urban or urbanized areas, or unincorporated developed areas having a population of 500 or more identified by local governments in their local government comprehensive plans and located outside of urban or urbanized areas.

(2) "Controlled Access Facilities" means non-limited access arterial facilities where access connections, median openings, and traffic signals are highly regulated.

(3) "Exclusive Through Lanes" means roadway lanes exclusively designated for intrastate travel, which are physically separated from general use lanes, and to which access is highly regulated. These lanes may be used for high occupancy vehicles and express buses during peak hours if the level of service standards can be maintained.

(4) "Florida Intrastate Highway System (FIHS)" means the highway system established pursuant to Section 338.001, F.S., which comprises a statewide network of limited and controlled access facilities. The primary function of the system is for high speed and high volume traffic movements within the state.

(5) "General Use Lanes" means roadway lanes not exclusively designated for long distance high speed travel. In urbanized areas general use lanes include high occupancy vehicle lanes not physically separated from other travel lanes.

(6) "Level of Service (LOS)" for highways means a quantitative stratification of the quality of service to a typical traveler on a facility into six letter grade levels with "A" describing the highest quality and "F" describing the lowest quality. The indicated LOS standards designate lowest acceptable operating conditions for the 100th highest volume hour of the year in the predominant traffic flow direction. The 100th highest volume hour represents the typical peak hour during the peak season. Definitions and measurement criteria used for minimum LOS standards are based on the Transportation Research Board *Highway Capacity* Manual 2000. All LOS evaluations are to be based on the Transportation Research Board *Highway Capacity* Manual 2000, the Department's 2002 *Quality/Level of Service* Handbook, or a methodology determined by the Department to be of comparable reliability. The Transportation Research Board *Highway Capacity Manual* 2000 and the Department's 2002 *Quality/Level of Service* Handbook are hereby incorporated by reference and made a part of these rules. The National Transportation Research Board's *Highway Capacity* Manual 2000, is available from the Transportation Research Board, National Research Council, Washington, D.C. The Department's 2002 *Quality/Level of Service* Handbook may be found at: http://www.dot.state.fl.us/planning/ systems/sm/los/los_sw2.htm.

(7) "Limited Access Facilities" means multilane divided highways having a minimum of two lanes for exclusive use of traffic in each direction and full control of ingress and egress; this includes freeways and all fully controlled access roadways.

(8) "Other State Roads" means roads on the SHS which are not part of the FIHS.

(9) "Peak Hour" means the 100th highest volume hour of the year in the predominant traffic flow direction from the present through a 20-year planning horizon.

(10) "Multimodal Transportation Districts (MMTDs)" means areas in which secondary priority is given to vehicle mobility and primary priority is given to assuring a safe, comfortable and attractive pedestrian environment with convenient interconnection to transit. Local government comprehensive plans may establish multimodal LOS standards within MMTDs pursuant to Section

163.3180(15), F.S.

(11) “Regionally Significant Roadways” means as established pursuant to Section 339.2819, F.S.

(12) “Roadways Parallel to Exclusive Transit Facilities” means roads that generally run parallel to and within one-half mile of exclusive transit facilities, which are physically separated rail or roadway lanes reserved for multipassenger use by rail cars or buses serving large volumes of home/work trips during peak travel hours. Exclusive transit facilities do not include downtown people-movers, or high occupancy vehicle lanes unless physically separated from other travel lanes.

(13) “Rural Areas” means areas not included in an urbanized area, a transitioning urbanized area, an urban area, or a community.

(14) “Strategic Intermodal System (SIS)” means as established pursuant to Sections 339.61-.64, F.S.

(15) “SIS Connectors” means designated roadways that connect SIS hubs to SIS highways. These may be either on or off the SHS.

(16) “SIS Hubs” means ports and terminals that move goods or people between Florida regions or between Florida and other markets in the United States and the rest of the world. These include commercial service airports, deepwater seaports, space ports, interregional rail and bus terminals, and freight rail terminals.

(17) “Transitioning Urbanized Areas” means the areas outside urbanized areas, but within the MPO Metropolitan Planning Area Boundaries, that are expected to be included within the urbanized areas within the next 20 years based primarily on the U.S. Bureau of Census urbanized criteria.

(18) “Transportation Concurrency Exception Area (TCEA)” means an area which is so designated by a local government pursuant to Section 163.3180, F.S.

(19) “Transportation Concurrency Management Area (TCMA)” means a geographically compact area with an existing network of roads where multiple, viable alternative travel paths or modes are available for common trips. A TCMA may be designated in local government comprehensive plans in accordance with Section 163.3180, F.S.

(20) “Transportation Regional Incentive Program (TRIP)” means as established pursuant to Section 339.2819, F.S.

(21) “Urban Areas” means places with a population of at least 5,000 which are not included in urbanized areas based on the most recent U.S. Census. The applicable boundary encompasses the urban area as well as the surrounding geographical area as determined by the Federal Highway Administration (FHWA), the Department, and local government. The boundaries are commonly called FHWA Urban Area Boundaries and include areas expected to have medium density development before the next decennial census.

(22) “Urbanized Areas” means the urbanized areas designated by the U.S. Bureau of Census as well as the surrounding geographical areas, as determined by the FHWA, the Department, and the Metropolitan Planning Organization, and are commonly called FHWA Urbanized Area Boundaries. The over or under 500,000 classifications distinguish urbanized area populations based on the most recent U.S. Census.

Specific Authority 163.3180(10), 334.044(2) FS. Law Implemented 163.3180(10), 163.3184(4), 334.03, 334.044(10)(a), (12), (19), 339.155(2), 339.2819, 339.61-.64 FS. History–New 4-14-92, Amended 5-8-06.

14-94.003 Statewide Minimum Level of Service Standards.

(1) The Statewide Minimum LOS Standards are as follows:

STATEWIDE MINIMUM LEVEL OF SERVICE STANDARDS FOR THE STATE HIGHWAY SYSTEM, ROADWAYS ON THE STRATEGIC INTERMODAL SYSTEM (SIS), ROADWAYS ON THE FLORIDA INTRASTATE HIGHWAY SYSTEM (FIHS) AND ROADWAY FACILITIES FUNDED IN ACCORDANCE WITH SECTION 339.2819, FLORIDA STATUTES, THE TRANSPORTATION REGIONAL INCENTIVE PROGRAM (TRIP)				
	SIS AND FIHS FACILITIES		**TRIP FUNDED FACILITIES AND OTHER STATE ROADS3**	
	Limited Access Highway4 (Freeway)	**Controlled Access Highway4**	**Other Multilane4**	**Two-Lane4**
Rural Areas	**B**	**B1**	**B**	**C**
Transitioning Urbanized Areas, Urban Areas, or Communities	**C**	**C**	**C**	**C**
Urbanized Areas Under 500,000	**C(D)**	**C**	**D**	**D**
Urbanized Areas Over 500,000	**D(E)**	**D**	**D**	**D**
Roadways Parallel to Exclusive Transit Facilities	**E**	**E**	**E**	**E**
Inside TCMAs	**D(E)2**	**E2**	**--2**	**--2**
Inside TCEAs2 and MMTDs2	**--2**	**--2**	**--2**	**--2**

Level of service standards inside of parentheses apply to general use lanes only when exclusive through lanes exist.

1. For rural two-lane facilities, the standard is C.

2. Means the Department must be consulted as provided by Section 163.3180(5), (7), or (15), Florida Statutes, regarding level of service standards set on SIS or TRIP facilities impacted by TCMAs, MMTDs, or TCEAs respectively.

3. Means the level of service standards for non TRIP facilities may be set by local governments in accordance with Rule 9J-5.0055, F.A.C.

4. It is recognized that certain roadways (i.e., constrained roadways) will not be expanded by the addition of through lanes for physical, environmental, or policy reasons. In such instances, a variance to the level of service may be sought pursuant to Section 120.542, Florida Statutes.

NOTE: Level of service letter designations are defined in the Department's 2002 *Quality/Level of Service Handbook*.

(2) Specific assumptions and restrictions that apply to these minimum LOS standards are:

(a) The minimum LOS standards represent the lowest acceptable operating conditions in the peak hour.

(b) Definitions and measurement criteria used for the minimum LOS standards can be found in the Transportation Research Board's *Highway Capacity* Manual Special Report 2000.

(c) When calculating or evaluating level of service pursuant to this rule, all calculations and evaluations shall be based on the methodology contained in Transportation Research Board's *Highway Capacity* Manual Special Report 2000, the Department's 2002 *Quality/Level of Service Handbook*, or a methodology determined by the Department to be of comparable reliability. Any methodology superseded by the *Highway Capacity* Manual 2000, such as a methodology based on the *1997 Highway Capacity Manual or Circular 212*, shall not be used.

(3) Minimum LOS Standards for SIS Connectors and TRIP Funded Facilities are:

(a) Minimum LOS Standards for SIS Highways.

1. Limited access SIS highways shall adhere to the limited access FIHS LOS standards.

2. Controlled access SIS highways shall adhere to the controlled access FIHS LOS standards.

3. These standards shall apply regardless whether the facility is FIHS, SHS, or under other jurisdiction.

(b) Minimum LOS Standards for SIS Connectors. The minimum LOS standard for SIS connectors shall be LOS D.

(c) Minimum LOS Standards for Regionally Significant Roadways Funded by the TRIP.

1. Regionally significant roadways utilizing TRIP funding shall adhere to the Other State Roads Standards in Chapter 14-94, F.A.C.

2. These LOS standards apply to the TRIP funded portions of the roadway facilities extending to their logical termini for LOS analysis.

Specific Authority 163.3180(10), 334.044(2) FS. Law Implemented 163.3180(10), 163.3184(4), 334.03, 334.044(10)(a), (12), (19), 339.155(2), 339.2819, 339.61-.64 FS. History–New 4-14-92, Amended 5-8-06.

Appendix E

FS 163.3180

The 2007 Florida Statutes

Title XI
COUNTY ORGANIZATION AND INTERGOVERNMENTAL RELATIONS

Chapter 163
INTERGOVERNMENTAL PROGRAMS

163.3180 Concurrency.--

(1)(a) Sanitary sewer, solid waste, drainage, potable water, parks and recreation, schools, and transportation facilities, including mass transit, where applicable, are the only public facilities and services subject to the concurrency requirement on a statewide basis. Additional public facilities and services may not be made subject to concurrency on a statewide basis without appropriate study and approval by the Legislature; however, any local government may extend the concurrency requirement so that it applies to additional public facilities within its jurisdiction.

(b) Local governments shall use professionally accepted techniques for measuring level of service for automobiles, bicycles, pedestrians, transit, and trucks. These techniques may be used to evaluate increased accessibility by multiple modes and reductions in vehicle miles of travel in an area or zone. The Department of Transportation shall develop methodologies to assist local governments in implementing this multimodal level-of-service analysis. The Department of Community Affairs and the Department of Transportation shall provide technical assistance to local governments in applying these methodologies.

(2)(a) Consistent with public health and safety, sanitary sewer, solid waste, drainage, adequate water supplies, and potable water facilities shall be in place and available to serve new development no later than the issuance by the local government of a certificate of occupancy or its functional equivalent. Prior to approval of a building permit or its functional equivalent, the local government shall consult with the applicable water supplier to determine whether adequate water supplies to serve the new development will be available no later than the anticipated date of issuance by the local government of a certificate of occupancy or its functional equivalent. A local government may meet the concurrency requirement for sanitary sewer through the use of onsite sewage treatment and disposal systems approved by the Department of Health to serve new development.

(b) Consistent with the public welfare, and except as otherwise provided in this section, parks and recreation facilities to serve new development shall be in place or under actual construction no later than 1 year after issuance by the local government of a certificate of occupancy or its functional equivalent. However, the acreage for such facilities shall be dedicated or be acquired by the local government prior to issuance by the local government of a certificate of occupancy or its functional equivalent, or funds in the amount of the developer's fair share shall be committed no later than the local government's approval to commence construction.

(c) Consistent with the public welfare, and except as otherwise provided in this section, transportation facilities needed to serve new development shall be in place or under actual construction within 3 years after the local government approves a building permit or its functional equivalent that results in traffic generation.

(3) Governmental entities that are not responsible for providing, financing, operating, or regulating public facilities needed to serve development may not establish binding level-of-service standards on governmental entities that do bear those responsibilities. This subsection does not limit the authority of any agency to recommend or make objections, recommendations, comments, or determinations during reviews conducted under s. 163.3184.

(4)(a) The concurrency requirement as implemented in local comprehensive plans applies to state and other public facilities and development to the same extent that it applies to all other facilities and development, as provided by law.

(b) The concurrency requirement as implemented in local comprehensive plans does not apply to public transit facilities. For the purposes of this paragraph, public transit facilities include transit stations and terminals; transit station parking; park-and-ride lots; intermodal public transit connection or transfer facilities; fixed bus, guideway, and rail stations; and airport passenger terminals and concourses, air cargo facilities, and hangars for the maintenance or storage of aircraft. As used in this paragraph, the terms "terminals" and "transit facilities" do not include seaports or commercial or residential development constructed in conjunction with a public transit facility.

(c) The concurrency requirement, except as it relates to transportation facilities and public schools, as implemented in local government comprehensive plans, may be waived by a local government for urban infill and redevelopment areas designated pursuant to s. 163.2517 if such a waiver does not endanger public health or safety as defined by the local government in its local government comprehensive plan. The waiver shall be adopted as a plan amendment pursuant to the process set forth in s. 163.3187(3)(a). A local government may grant a concurrency exception pursuant to subsection (5) for transportation facilities located within these urban infill and redevelopment areas.

(5)(a) The Legislature finds that under limited circumstances dealing with transportation facilities, countervailing planning and public policy goals may come into conflict with the requirement that adequate public facilities and services be available concurrent with the impacts of such development. The Legislature further finds that often the unintended result of the concurrency requirement for transportation facilities is the discouragement of urban infill development and redevelopment. Such unintended results directly conflict with the goals and policies of the state comprehensive plan and the intent of this part. Therefore, exceptions from the concurrency requirement for transportation facilities may be granted as provided by this subsection.

(b) A local government may grant an exception from the concurrency requirement for transportation facilities if the proposed development is otherwise consistent with the adopted local government comprehensive plan and is a project that promotes public transportation or is located within an area designated in the comprehensive plan for:

1. Urban infill development;

2. Urban redevelopment;

3. Downtown revitalization;

4. Urban infill and redevelopment under s. 163.2517; or

5. An urban service area specifically designated as a transportation concurrency exception area which includes lands appropriate for compact, contiguous urban development, which does not exceed the amount of land needed to accommodate the projected population growth at densities consistent with the adopted comprehensive plan within the 10-year planning period, and which is served or is planned to be served with public facilities and services as provided by the capital improvements element.

(c) The Legislature also finds that developments located within urban infill, urban redevelopment, existing urban service, or downtown revitalization areas or areas designated as urban infill and redevelopment areas under s. 163.2517 which pose only special part-time demands on the transportation system should be excepted from the concurrency requirement for transportation facilities. A special part-time demand is one that does not have more than 200 scheduled events during any calendar year and does not affect the 100 highest traffic volume hours.

(d) A local government shall establish guidelines in the comprehensive plan for granting the exceptions authorized in paragraphs (b) and (c) and subsections (7) and (15) which must be consistent with and support a comprehensive strategy adopted in the plan to promote the purpose of the exceptions.

(e) The local government shall adopt into the plan and implement long-term strategies to support and fund mobility within the designated exception area, including alternative modes of transportation. The plan amendment must also demonstrate how strategies will support the purpose of the exception and how mobility within the designated exception area will be provided. In addition, the strategies must address urban design; appropriate land use mixes, including intensity and density; and network connectivity plans needed to promote urban infill, redevelopment, or downtown revitalization. The comprehensive plan amendment designating the concurrency exception area must be accompanied by data and analysis justifying the size of the area.

(f) Prior to the designation of a concurrency exception area, the state land planning agency and the Department of Transportation shall be consulted by the local government to assess the impact that the proposed exception area is expected to have on the adopted

level-of-service standards established for Strategic Intermodal System facilities, as defined in s. 339.64, and roadway facilities funded in accordance with s. 339.2819. Further, the local government shall, in consultation with the state land planning agency and the Department of Transportation, develop a plan to mitigate any impacts to the Strategic Intermodal System, including, if appropriate, the development of a long-term concurrency management system pursuant to subsection (9) and s. 163.3177(3)(d). The exceptions may be available only within the specific geographic area of the jurisdiction designated in the plan. Pursuant to s. 163.3184, any affected person may challenge a plan amendment establishing these guidelines and the areas within which an exception could be granted.

(g) Transportation concurrency exception areas existing prior to July 1, 2005, must, at a minimum, meet the provisions of this section by July 1, 2006, or at the time of the comprehensive plan update pursuant to the evaluation and appraisal report, whichever occurs last.

(6) The Legislature finds that a de minimis impact is consistent with this part. A de minimis impact is an impact that would not affect more than 1 percent of the maximum volume at the adopted level of service of the affected transportation facility as determined by the local government. No impact will be de minimis if the sum of existing roadway volumes and the projected volumes from approved projects on a transportation facility would exceed 110 percent of the maximum volume at the adopted level of service of the affected transportation facility; provided however, that an impact of a single family home on an existing lot will constitute a de minimis impact on all roadways regardless of the level of the deficiency of the roadway. Further, no impact will be de minimis if it would exceed the adopted level-of-service standard of any affected designated hurricane evacuation routes. Each local government shall maintain sufficient records to ensure that the 110-percent criterion is not exceeded. Each local government shall submit annually, with its updated capital improvements element, a summary of the de minimis records. If the state land planning agency determines that the 110-percent criterion has been exceeded, the state land planning agency shall notify the local government of the exceedance and that no further de minimis exceptions for the applicable roadway may be granted until such time as the volume is reduced below the 110 percent. The local government shall provide proof of this reduction to the state land planning agency before issuing further de minimis exceptions.

(7) In order to promote infill development and redevelopment, one or more transportation concurrency management areas may be designated in a local government comprehensive plan. A transportation concurrency management area must be a compact geographic area with an existing network of roads where multiple, viable alternative travel paths or modes are available for common trips. A local government may establish an areawide level-of-service standard for such a transportation concurrency management area based upon an analysis that provides for a justification for the areawide level of service, how urban infill development or redevelopment will be promoted, and how mobility will be accomplished within the transportation concurrency management area. Prior to the designation of a concurrency management area, the Department of

Transportation shall be consulted by the local government to assess the impact that the proposed concurrency management area is expected to have on the adopted level-of-service standards established for Strategic Intermodal System facilities, as defined in s. 339.64, and roadway facilities funded in accordance with s. 339.2819. Further, the local government shall, in cooperation with the Department of Transportation, develop a plan to mitigate any impacts to the Strategic Intermodal System, including, if appropriate, the development of a long-term concurrency management system pursuant to subsection (9) and s. 163.3177(3)(d). Transportation concurrency management areas existing prior to July 1, 2005, shall meet, at a minimum, the provisions of this section by July 1, 2006, or at the time of the comprehensive plan update pursuant to the evaluation and appraisal report, whichever occurs last. The state land planning agency shall amend chapter 9J-5, Florida Administrative Code, to be consistent with this subsection.

(8) When assessing the transportation impacts of proposed urban redevelopment within an established existing urban service area, 110 percent of the actual transportation impact caused by the previously existing development must be reserved for the redevelopment, even if the previously existing development has a lesser or nonexisting impact pursuant to the calculations of the local government. Redevelopment requiring less than 110 percent of the previously existing capacity shall not be prohibited due to the reduction of transportation levels of service below the adopted standards. This does not preclude the appropriate assessment of fees or accounting for the impacts within the concurrency management system and capital improvements program of the affected local government. This paragraph does not affect local government requirements for appropriate development permits.

(9)(a) Each local government may adopt as a part of its plan, long-term transportation and school concurrency management systems with a planning period of up to 10 years for specially designated districts or areas where significant backlogs exist. The plan may include interim level-of-service standards on certain facilities and shall rely on the local government's schedule of capital improvements for up to 10 years as a basis for issuing development orders that authorize commencement of construction in these designated districts or areas. The concurrency management system must be designed to correct existing deficiencies and set priorities for addressing backlogged facilities. The concurrency management system must be financially feasible and consistent with other portions of the adopted local plan, including the future land use map.

(b) If a local government has a transportation or school facility backlog for existing development which cannot be adequately addressed in a 10-year plan, the state land planning agency may allow it to develop a plan and long-term schedule of capital improvements covering up to 15 years for good and sufficient cause, based on a general comparison between that local government and all other similarly situated local jurisdictions, using the following factors:

1. The extent of the backlog.

2. For roads, whether the backlog is on local or state roads.

3. The cost of eliminating the backlog.

4. The local government's tax and other revenue-raising efforts.

(c) The local government may issue approvals to commence construction notwithstanding this section, consistent with and in areas that are subject to a long-term concurrency management system.

(d) If the local government adopts a long-term concurrency management system, it must evaluate the system periodically. At a minimum, the local government must assess its progress toward improving levels of service within the long-term concurrency management district or area in the evaluation and appraisal report and determine any changes that are necessary to accelerate progress in meeting acceptable levels of service.

(10) With regard to roadway facilities on the Strategic Intermodal System designated in accordance with ss. 339.61, 339.62, 339.63, and 339.64, the Florida Intrastate Highway System as defined in s. 338.001, and roadway facilities funded in accordance with s. 339.2819, local governments shall adopt the level-of-service standard established by the Department of Transportation by rule. For all other roads on the State Highway System, local governments shall establish an adequate level-of-service standard that need not be consistent with any level-of-service standard established by the Department of Transportation. In establishing adequate level-of-service standards for any arterial roads, or collector roads as appropriate, which traverse multiple jurisdictions, local governments shall consider compatibility with the roadway facility's adopted level-of-service standards in adjacent jurisdictions. Each local government within a county shall use a professionally accepted methodology for measuring impacts on transportation facilities for the purposes of implementing its concurrency management system. Counties are encouraged to coordinate with adjacent counties, and local governments within a county are encouraged to coordinate, for the purpose of using common methodologies for measuring impacts on transportation facilities for the purpose of implementing their concurrency management systems.

(11) In order to limit the liability of local governments, a local government may allow a landowner to proceed with development of a specific parcel of land notwithstanding a failure of the development to satisfy transportation concurrency, when all the following factors are shown to exist:

(a) The local government with jurisdiction over the property has adopted a local comprehensive plan that is in compliance.

(b) The proposed development would be consistent with the future land use designation for the specific property and with pertinent portions of the adopted local plan, as determined by the local government.

(c) The local plan includes a financially feasible capital improvements element that provides for transportation facilities adequate to serve the proposed development, and the local government has not implemented that element.

(d) The local government has provided a means by which the landowner will be assessed a fair share of the cost of providing the transportation facilities necessary to serve the proposed development.

(e) The landowner has made a binding commitment to the local government to pay the fair share of the cost of providing the transportation facilities to serve the proposed development.

(12) A development of regional impact may satisfy the transportation concurrency requirements of the local comprehensive plan, the local government's concurrency management system, and s. 380.06 by payment of a proportionate-share contribution for local and regionally significant traffic impacts, if:

(a) The development of regional impact which, based on its location or mix of land uses, is designed to encourage pedestrian or other nonautomotive modes of transportation;

(b) The proportionate-share contribution for local and regionally significant traffic impacts is sufficient to pay for one or more required mobility improvements that will benefit a regionally significant transportation facility;

(c) The owner and developer of the development of regional impact pays or assures payment of the proportionate-share contribution; and

(d) If the regionally significant transportation facility to be constructed or improved is under the maintenance authority of a governmental entity, as defined by s. 334.03(12), other than the local government with jurisdiction over the development of regional impact, the developer is required to enter into a binding and legally enforceable commitment to transfer funds to the governmental entity having maintenance authority or to otherwise assure construction or improvement of the facility.

The proportionate-share contribution may be applied to any transportation facility to satisfy the provisions of this subsection and the local comprehensive plan, but, for the purposes of this subsection, the amount of the proportionate-share contribution shall be calculated based upon the cumulative number of trips from the proposed development expected to reach roadways during the peak hour from the complete buildout of a 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 the adopted level of service, multiplied by the construction cost, at the time of developer payment, of the improvement necessary to maintain the adopted level of service. For purposes of this subsection, "construction cost" includes all associated costs of the improvement. Proportionate-share mitigation shall be limited to ensure that a development of regional impact meeting the requirements of this subsection mitigates its

impact on the transportation system but is not responsible for the additional cost of reducing or eliminating backlogs. This subsection also applies to Florida Quality Developments pursuant to s. 380.061 and to detailed specific area plans implementing optional sector plans pursuant to s. 163.3245.

(13) School concurrency shall be established on a districtwide basis and shall include all public schools in the district and all portions of the district, whether located in a municipality or an unincorporated area unless exempt from the public school facilities element pursuant to s. 163.3177(12). The application of school concurrency to development shall be based upon the adopted comprehensive plan, as amended. All local governments within a county, except as provided in paragraph (f), shall adopt and transmit to the state land planning agency the necessary plan amendments, along with the interlocal agreement, for a compliance review pursuant to s. 163.3184(7) and (8). The minimum requirements for school concurrency are the following:

(a) Public school facilities element.--A local government shall adopt and transmit to the state land planning agency a plan or plan amendment which includes a public school facilities element which is consistent with the requirements of s. 163.3177(12) and which is determined to be in compliance as defined in s. 163.3184(1)(b). All local government public school facilities plan elements within a county must be consistent with each other as well as the requirements of this part.

(b) Level-of-service standards.--The Legislature recognizes that an essential requirement for a concurrency management system is the level of service at which a public facility is expected to operate.

1. Local governments and school boards imposing school concurrency shall exercise authority in conjunction with each other to establish jointly adequate level-of-service standards, as defined in chapter 9J-5, Florida Administrative Code, necessary to implement the adopted local government comprehensive plan, based on data and analysis.

2. Public school level-of-service standards shall be included and adopted into the capital improvements element of the local comprehensive plan and shall apply districtwide to all schools of the same type. Types of schools may include elementary, middle, and high schools as well as special purpose facilities such as magnet schools.

3. Local governments and school boards shall have the option to utilize tiered level-of-service standards to allow time to achieve an adequate and desirable level of service as circumstances warrant.

(c) Service areas.--The Legislature recognizes that an essential requirement for a concurrency system is a designation of the area within which the level of service will be measured when an application for a residential development permit is reviewed for school concurrency purposes. This delineation is also important for purposes of determining whether the local government has a financially feasible public school capital

facilities program that will provide schools which will achieve and maintain the adopted level-of-service standards.

1. In order to balance competing interests, preserve the constitutional concept of uniformity, and avoid disruption of existing educational and growth management processes, local governments are encouraged to initially apply school concurrency to development only on a districtwide basis so that a concurrency determination for a specific development will be based upon the availability of school capacity districtwide. To ensure that development is coordinated with schools having available capacity, within 5 years after adoption of school concurrency, local governments shall apply school concurrency on a less than districtwide basis, such as using school attendance zones or concurrency service areas, as provided in subparagraph 2.

2. For local governments applying school concurrency on a less than districtwide basis, such as utilizing school attendance zones or larger school concurrency service areas, local governments and school boards shall have the burden to demonstrate that the utilization of school capacity is maximized to the greatest extent possible in the comprehensive plan and amendment, taking into account transportation costs and court-approved desegregation plans, as well as other factors. In addition, in order to achieve concurrency within the service area boundaries selected by local governments and school boards, the service area boundaries, together with the standards for establishing those boundaries, shall be identified and included as supporting data and analysis for the comprehensive plan.

3. Where school capacity is available on a districtwide basis but school concurrency is applied on a less than districtwide basis in the form of concurrency service areas, if the adopted level-of-service standard cannot be met in a particular service area as applied to an application for a development permit and if the needed capacity for the particular service area is available in one or more contiguous service areas, as adopted by the local government, then the local government may not deny an application for site plan or final subdivision approval or the functional equivalent for a development or phase of a development on the basis of school concurrency, and if issued, development impacts shall be shifted to contiguous service areas with schools having available capacity.

(d) Financial feasibility.--The Legislature recognizes that financial feasibility is an important issue because the premise of concurrency is that the public facilities will be provided in order to achieve and maintain the adopted level-of-service standard. This part and chapter 9J-5, Florida Administrative Code, contain specific standards to determine the financial feasibility of capital programs. These standards were adopted to make concurrency more predictable and local governments more accountable.

1. A comprehensive plan amendment seeking to impose school concurrency shall contain appropriate amendments to the capital improvements element of the comprehensive plan, consistent with the requirements of s. 163.3177(3) and rule 9J-5.016, Florida Administrative Code. The capital improvements element shall set forth a financially feasible public school capital facilities program, established in conjunction

with the school board, that demonstrates that the adopted level-of-service standards will be achieved and maintained.

2. Such amendments shall demonstrate that the public school capital facilities program meets all of the financial feasibility standards of this part and chapter 9J-5, Florida Administrative Code, that apply to capital programs which provide the basis for mandatory concurrency on other public facilities and services.

3. When the financial feasibility of a public school capital facilities program is evaluated by the state land planning agency for purposes of a compliance determination, the evaluation shall be based upon the service areas selected by the local governments and school board.

(e) Availability standard.--Consistent with the public welfare, a local government may not deny an application for site plan, final subdivision approval, or the functional equivalent for a development or phase of a development authorizing residential development for failure to achieve and maintain the level-of-service standard for public school capacity in a local school concurrency management system where adequate school facilities will be in place or under actual construction within 3 years after the issuance of final subdivision or site plan approval, or the functional equivalent. School concurrency is satisfied if the developer executes a legally binding commitment to provide mitigation proportionate to the demand for public school facilities to be created by actual development of the property, including, but not limited to, the options described in subparagraph 1. Options for proportionate-share mitigation of impacts on public school facilities must be established in the public school facilities element and the interlocal agreement pursuant to s. 163.31777.

1. Appropriate mitigation options include the contribution of land; the construction, expansion, or payment for land acquisition or construction of a public school facility; or the creation of mitigation banking based on the construction of a public school facility in exchange for the right to sell capacity credits. Such options must include execution by the applicant and the local government of a development agreement that constitutes a legally binding commitment to pay proportionate-share mitigation for the additional residential units approved by the local government in a development order and actually developed on the property, taking into account residential density allowed on the property prior to the plan amendment that increased the overall residential density. The district school board must be a party to such an agreement. As a condition of its entry into such a development agreement, the local government may require the landowner to agree to continuing renewal of the agreement upon its expiration.

2. If the education facilities plan and the public educational facilities element authorize a contribution of land; the construction, expansion, or payment for land acquisition; or the construction or expansion of a public school facility, or a portion thereof, as proportionate-share mitigation, the local government shall credit such a contribution, construction, expansion, or payment toward any other impact fee or exaction imposed by local ordinance for the same need, on a dollar-for-dollar basis at fair market value.

3. Any proportionate-share mitigation must be directed by the school board toward a school capacity improvement identified in a financially feasible 5-year district work plan that satisfies the demands created by the development in accordance with a binding developer's agreement.

4. If a development is precluded from commencing because there is inadequate classroom capacity to mitigate the impacts of the development, the development may nevertheless commence if there are accelerated facilities in an approved capital improvement element scheduled for construction in year four or later of such plan which, when built, will mitigate the proposed development, or if such accelerated facilities will be in the next annual update of the capital facilities element, the developer enters into a binding, financially guaranteed agreement with the school district to construct an accelerated facility within the first 3 years of an approved capital improvement plan, and the cost of the school facility is equal to or greater than the development's proportionate share. When the completed school facility is conveyed to the school district, the developer shall receive impact fee credits usable within the zone where the facility is constructed or any attendance zone contiguous with or adjacent to the zone where the facility is constructed.

5. This paragraph does not limit the authority of a local government to deny a development permit or its functional equivalent pursuant to its home rule regulatory powers, except as provided in this part.

(f) Intergovernmental coordination.--

1. When establishing concurrency requirements for public schools, a local government shall satisfy the requirements for intergovernmental coordination set forth in s. 163.3177(6)(h)1. and 2., except that a municipality is not required to be a signatory to the interlocal agreement required by ss. 163.3177(6)(h)2. and 163.31777(6), as a prerequisite for imposition of school concurrency, and as a nonsignatory, shall not participate in the adopted local school concurrency system, if the municipality meets all of the following criteria for having no significant impact on school attendance:

a. The municipality has issued development orders for fewer than 50 residential dwelling units during the preceding 5 years, or the municipality has generated fewer than 25 additional public school students during the preceding 5 years.

b. The municipality has not annexed new land during the preceding 5 years in land use categories which permit residential uses that will affect school attendance rates.

c. The municipality has no public schools located within its boundaries.

d. At least 80 percent of the developable land within the boundaries of the municipality has been built upon.

2. A municipality which qualifies as having no significant impact on school attendance pursuant to the criteria of subparagraph 1. must review and determine at the time of its evaluation and appraisal report pursuant to s. 163.3191 whether it continues to meet the criteria pursuant to s. 163.31777(6). If the municipality determines that it no longer meets the criteria, it must adopt appropriate school concurrency goals, objectives, and policies in its plan amendments based on the evaluation and appraisal report, and enter into the existing interlocal agreement required by ss. 163.3177(6)(h)2. and 163.31777, in order to fully participate in the school concurrency system. If such a municipality fails to do so, it will be subject to the enforcement provisions of s. 163.3191.

(g) Interlocal agreement for school concurrency.--When establishing concurrency requirements for public schools, a local government must enter into an interlocal agreement that satisfies the requirements in ss. 163.3177(6)(h)1. and 2. and 163.31777 and the requirements of this subsection. The interlocal agreement shall acknowledge both the school board's constitutional and statutory obligations to provide a uniform system of free public schools on a countywide basis, and the land use authority of local governments, including their authority to approve or deny comprehensive plan amendments and development orders. The interlocal agreement shall be submitted to the state land planning agency by the local government as a part of the compliance review, along with the other necessary amendments to the comprehensive plan required by this part. In addition to the requirements of ss. 163.3177(6)(h) and 163.31777, the interlocal agreement shall meet the following requirements:

1. Establish the mechanisms for coordinating the development, adoption, and amendment of each local government's public school facilities element with each other and the plans of the school board to ensure a uniform districtwide school concurrency system.

2. Establish a process for the development of siting criteria which encourages the location of public schools proximate to urban residential areas to the extent possible and seeks to collocate schools with other public facilities such as parks, libraries, and community centers to the extent possible.

3. Specify uniform, districtwide level-of-service standards for public schools of the same type and the process for modifying the adopted level-of-service standards.

4. Establish a process for the preparation, amendment, and joint approval by each local government and the school board of a public school capital facilities program which is financially feasible, and a process and schedule for incorporation of the public school capital facilities program into the local government comprehensive plans on an annual basis.

5. Define the geographic application of school concurrency. If school concurrency is to be applied on a less than districtwide basis in the form of concurrency service areas, the agreement shall establish criteria and standards for the establishment and modification of school concurrency service areas. The agreement shall also establish a process and

schedule for the mandatory incorporation of the school concurrency service areas and the criteria and standards for establishment of the service areas into the local government comprehensive plans. The agreement shall ensure maximum utilization of school capacity, taking into account transportation costs and court-approved desegregation plans, as well as other factors. The agreement shall also ensure the achievement and maintenance of the adopted level-of-service standards for the geographic area of application throughout the 5 years covered by the public school capital facilities plan and thereafter by adding a new fifth year during the annual update.

6. Establish a uniform districtwide procedure for implementing school concurrency which provides for:

a. The evaluation of development applications for compliance with school concurrency requirements, including information provided by the school board on affected schools, impact on levels of service, and programmed improvements for affected schools and any options to provide sufficient capacity;

b. An opportunity for the school board to review and comment on the effect of comprehensive plan amendments and rezonings on the public school facilities plan; and

c. The monitoring and evaluation of the school concurrency system.

7. Include provisions relating to amendment of the agreement.

8. A process and uniform methodology for determining proportionate-share mitigation pursuant to subparagraph (e)1.

(h) Local government authority.--This subsection does not limit the authority of a local government to grant or deny a development permit or its functional equivalent prior to the implementation of school concurrency.

(14) The state land planning agency shall, by October 1, 1998, adopt by rule minimum criteria for the review and determination of compliance of a public school facilities element adopted by a local government for purposes of imposition of school concurrency.

(15)(a) Multimodal transportation districts may be established under a local government comprehensive plan in areas delineated on the future land use map for which the local comprehensive plan assigns secondary priority to vehicle mobility and primary priority to assuring a safe, comfortable, and attractive pedestrian environment, with convenient interconnection to transit. Such districts must incorporate community design features that will reduce the number of automobile trips or vehicle miles of travel and will support an integrated, multimodal transportation system. Prior to the designation of multimodal transportation districts, the Department of Transportation shall be consulted by the local government to assess the impact that the proposed multimodal district area is expected to have on the adopted level-of-service standards established for Strategic Intermodal System facilities, as defined in s. 339.64, and roadway facilities funded in accordance

with s. 339.2819. Further, the local government shall, in cooperation with the Department of Transportation, develop a plan to mitigate any impacts to the Strategic Intermodal System, including the development of a long-term concurrency management system pursuant to subsection (9) and s. 163.3177(3)(d). Multimodal transportation districts existing prior to July 1, 2005, shall meet, at a minimum, the provisions of this section by July 1, 2006, or at the time of the comprehensive plan update pursuant to the evaluation and appraisal report, whichever occurs last.

(b) Community design elements of such a district include: a complementary mix and range of land uses, including educational, recreational, and cultural uses; interconnected networks of streets designed to encourage walking and bicycling, with traffic-calming where desirable; appropriate densities and intensities of use within walking distance of transit stops; daily activities within walking distance of residences, allowing independence to persons who do not drive; public uses, streets, and squares that are safe, comfortable, and attractive for the pedestrian, with adjoining buildings open to the street and with parking not interfering with pedestrian, transit, automobile, and truck travel modes.

(c) Local governments may establish multimodal level-of-service standards that rely primarily on nonvehicular modes of transportation within the district, when justified by an analysis demonstrating that the existing and planned community design will provide an adequate level of mobility within the district based upon professionally accepted multimodal level-of-service methodologies. The analysis must also demonstrate that the capital improvements required to promote community design are financially feasible over the development or redevelopment timeframe for the district and that community design features within the district provide convenient interconnection for a multimodal transportation system. Local governments may issue development permits in reliance upon all planned community design capital improvements that are financially feasible over the development or redevelopment timeframe for the district, without regard to the period of time between development or redevelopment and the scheduled construction of the capital improvements. A determination of financial feasibility shall be based upon currently available funding or funding sources that could reasonably be expected to become available over the planning period.

(d) Local governments may reduce impact fees or local access fees for development within multimodal transportation districts based on the reduction of vehicle trips per household or vehicle miles of travel expected from the development pattern planned for the district.

(e) By December 1, 2007, the Department of Transportation, in consultation with the state land planning agency and interested local governments, may designate a study area for conducting a pilot project to determine the benefits of and barriers to establishing a regional multimodal transportation concurrency district that extends over more than one local government jurisdiction. If designated:

1. The study area must be in a county that has a population of at least 1,000 persons per square mile, be within an urban service area, and have the consent of the local governments within the study area. The Department of Transportation and the state land planning agency shall provide technical assistance.

2. The local governments within the study area and the Department of Transportation, in consultation with the state land planning agency, shall cooperatively create a multimodal transportation plan that meets the requirements of this section. The multimodal transportation plan must include viable local funding options and incorporate community design features, including a range of mixed land uses and densities and intensities, which will reduce the number of automobile trips or vehicle miles of travel while supporting an integrated, multimodal transportation system.

3. To effectuate the multimodal transportation concurrency district, participating local governments may adopt appropriate comprehensive plan amendments.

4. The Department of Transportation, in consultation with the state land planning agency, shall submit a report by March 1, 2009, to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the status of the pilot project. The report must identify any factors that support or limit the creation and success of a regional multimodal transportation district including intergovernmental coordination.

(16) It is the intent of the Legislature to 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. The methodology used to calculate proportionate fair-share mitigation under this section shall be as provided for in subsection (12).

(a) By December 1, 2006, each local government shall adopt by ordinance a methodology for assessing proportionate fair-share mitigation options. By December 1, 2005, the Department of Transportation shall develop a model transportation concurrency management ordinance with methodologies for assessing proportionate fair-share mitigation options.

(b)1. In its transportation concurrency management system, a local government shall, by December 1, 2006, include methodologies that will be applied to calculate proportionate fair-share mitigation. A developer may choose to satisfy all transportation concurrency requirements by contributing or paying proportionate fair-share mitigation if transportation facilities or facility segments identified as mitigation for traffic impacts are specifically identified for funding in the 5-year schedule of capital improvements in the capital improvements element of the local plan or the long-term concurrency management system or if such contributions or payments to such facilities or segments are reflected in the 5-year schedule of capital improvements in the next regularly scheduled update of the capital improvements element. Updates to the 5-year capital improvements element which reflect proportionate fair-share contributions may not be found not in compliance based on ss. 163.3164(32) and 163.3177(3) if additional

contributions, payments or funding sources are reasonably anticipated during a period not to exceed 10 years to fully mitigate impacts on the transportation facilities.

2. Proportionate fair-share mitigation 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 capital infrastructure improvements contemplated by the local government's impact fee ordinance.

(c) Proportionate fair-share mitigation includes, without limitation, separately or collectively, private funds, contributions of land, and construction and contribution of facilities and may include public funds as determined by the local government. Proportionate fair-share mitigation may be directed toward one or more specific transportation improvements reasonably related to the mobility demands created by the development and such improvements may address one or more modes of travel. The fair market value of the proportionate fair-share mitigation shall not differ based on the form of mitigation. A local government may not require a development to pay more than its proportionate fair-share contribution regardless of the method of mitigation. Proportionate fair-share mitigation shall be limited to ensure that a development meeting the requirements of this section mitigates its impact on the transportation system but is not responsible for the additional cost of reducing or eliminating backlogs.

(d) This subsection does not require a local government to approve a development that is not otherwise qualified for approval pursuant to the applicable local comprehensive plan and land development regulations.

(e) Mitigation for development impacts to facilities on the Strategic Intermodal System made pursuant to this subsection requires the concurrence of the Department of Transportation.

(f) If the funds in an adopted 5-year capital improvements element are insufficient to fully fund construction of a transportation improvement required by the local government's concurrency management system, a local government and a developer may still enter into a binding proportionate-share agreement authorizing the developer to construct that amount of development on which the proportionate share is calculated if the proportionate-share amount in such agreement is sufficient to pay for one or more improvements which will, in the opinion of the governmental entity or entities maintaining the transportation facilities, significantly benefit the impacted transportation system. The improvements funded by the proportionate-share component must be adopted into the 5-year capital improvements schedule of the comprehensive plan at the next annual capital improvements element update. The funding of any improvements that significantly benefit the impacted transportation system satisfies concurrency requirements as a mitigation of the development's impact upon the overall transportation system even if there remains a failure of concurrency on other impacted facilities.

(g) Except as provided in subparagraph (b)1., this section may not prohibit the Department of Community Affairs from finding other portions of the capital improvements element amendments not in compliance as provided in this chapter.

(h) The provisions of this subsection do not apply to a development of regional impact satisfying the requirements of subsection (12).

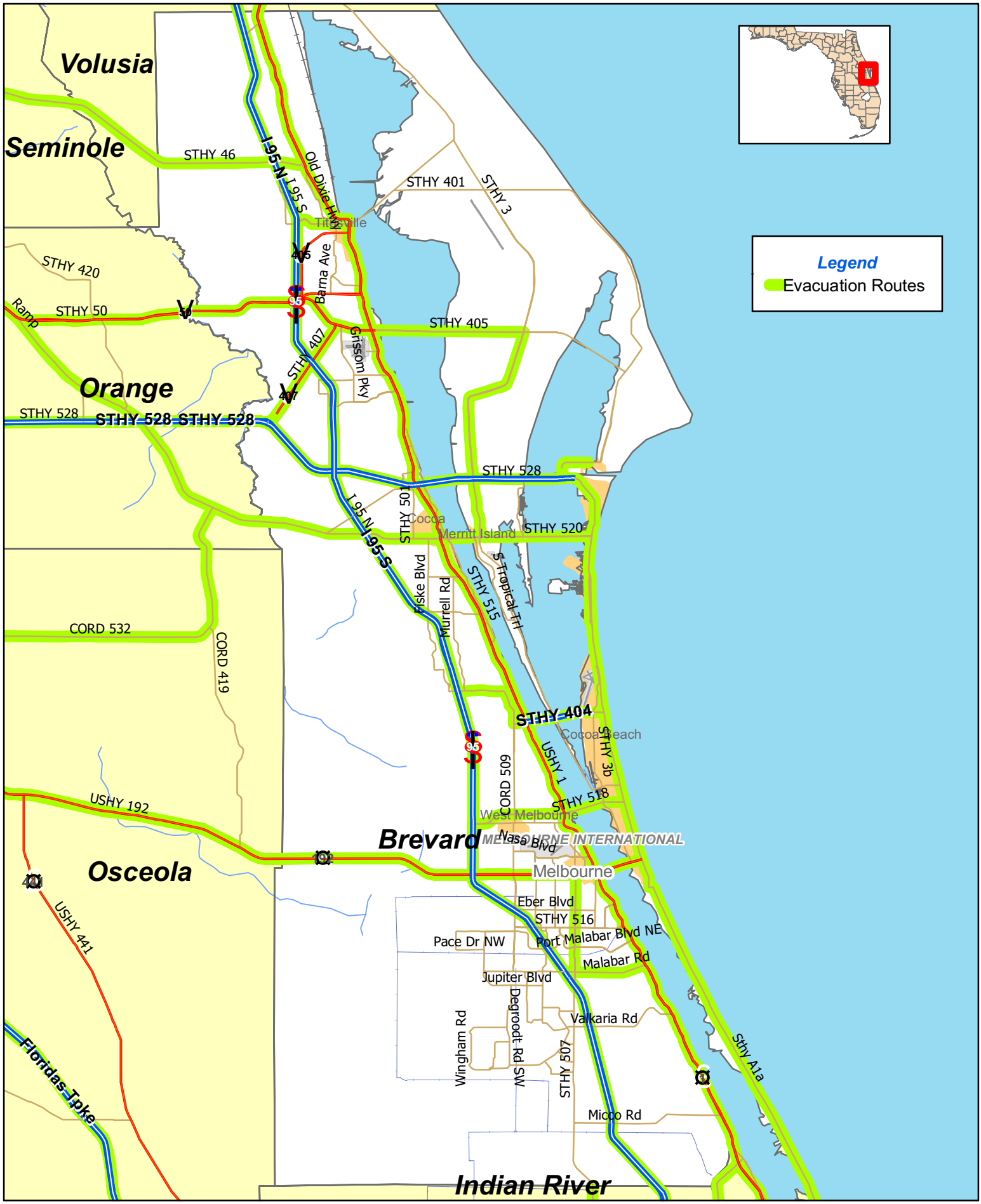
(17) A local government and the developer of affordable workforce housing units developed in accordance with s. 380.06(19) or s. 380.0651(3) may identify an employment center or centers in close proximity to the affordable workforce housing units. If at least 50 percent of the units are occupied by an employee or employees of an identified employment center or centers, all of the affordable workforce housing units are exempt from transportation concurrency requirements, and the local government may not reduce any transportation trip-generation entitlements of an approved development-of-regional-impact development order. As used in this subsection, the term "close proximity" means 5 miles from the nearest point of the development of regional impact to the nearest point of the employment center, and the term "employment center" means a place of employment that employs at least 25 or more full-time employees.

History.--s. 8, ch. 93-206; s. 12, ch. 95-341; s. 3, ch. 96-416; s. 1, ch. 97-253; s. 5, ch. 98-176; s. 4, ch. 99-378; s. 2, ch. 2002-13; s. 6, ch. 2002-296; s. 5, ch. 2005-290; s. 11, ch. 2005-291; s. 18, ch. 2006-1; s. 3, ch. 2006-220; s. 3, ch. 2006-252; s. 11, ch. 2007-196; s. 2, ch. 2007-198; s. 3, ch. 2007-204.

Appendix F

Evacuation Route Maps

Source: Florida Division of Emergency Management
http://www.floridadisaster.org/publicmapping

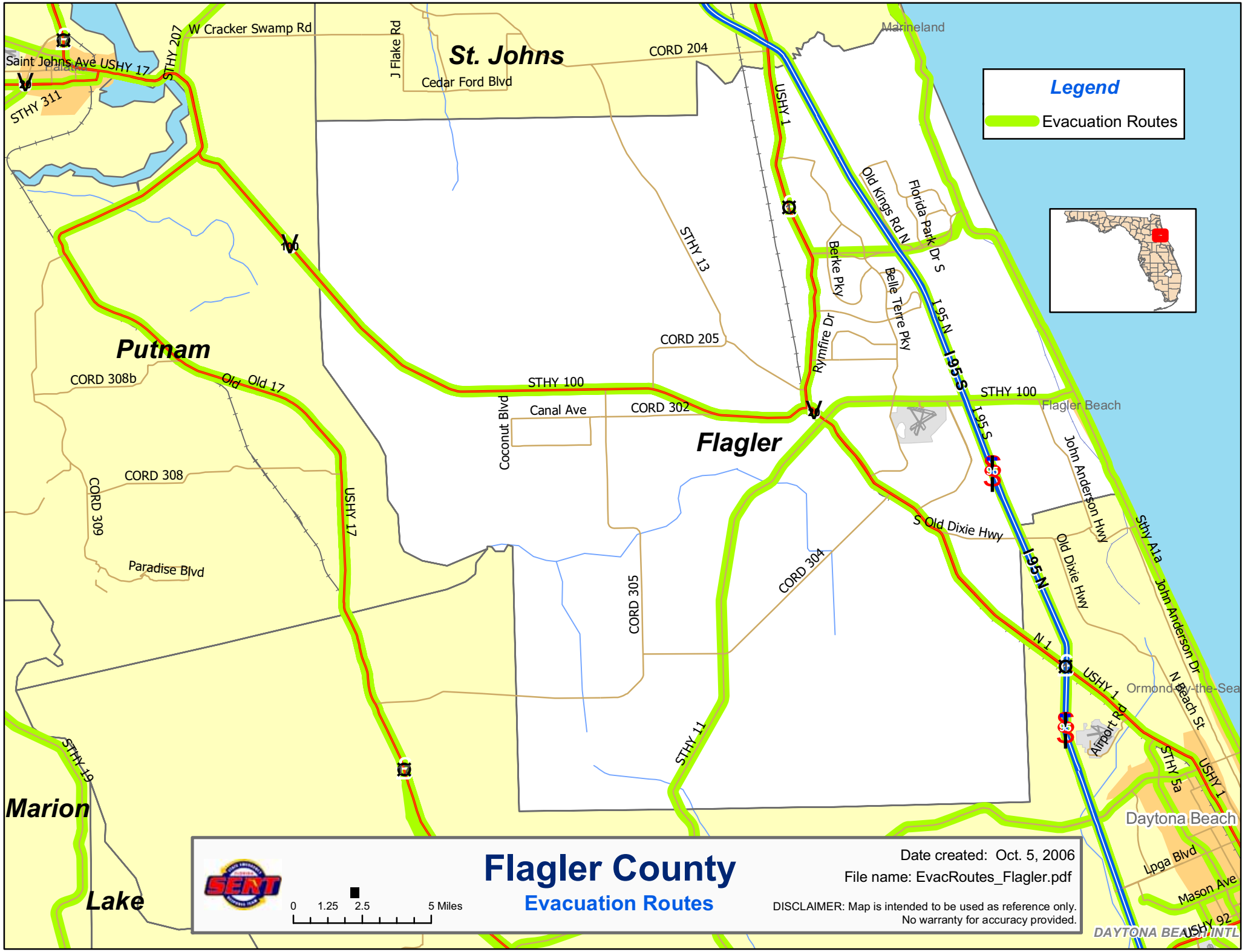


DCA/DEM/GIS

DISCLAIMER: Map is intended to be used as reference only. No warranty for accuracy provided.

Brevard County
Evacuation Routes

Created by: Larry H. Kung
Date created: Oct. 6, 2006
Requested by: Standard Product
File name: EvacRoutes_Brevard.pdf



Flagler County

Evacuation Routes

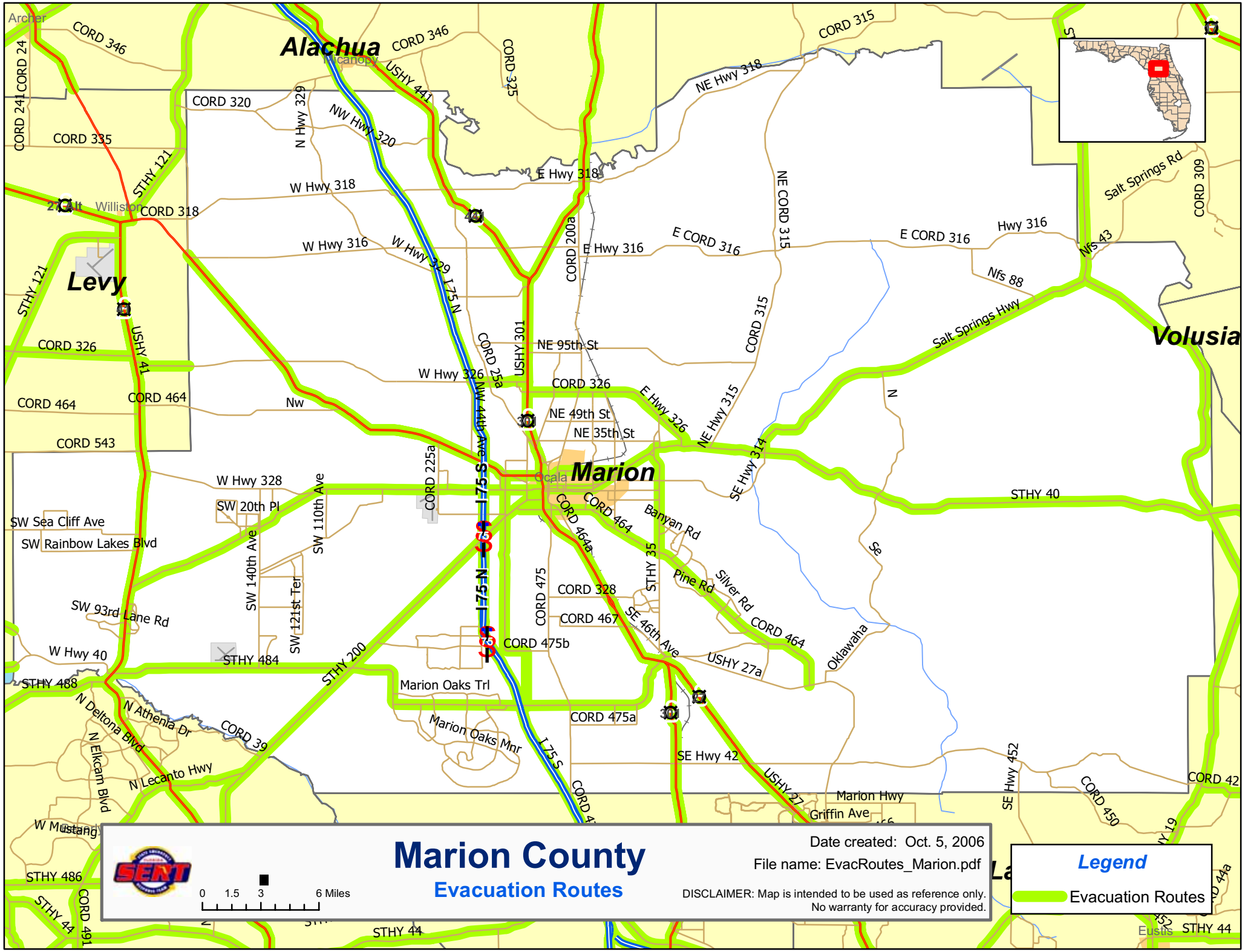
Date created: Oct. 5, 2006

File name: EvacRoutes_Flagler.pdf

DISCLAIMER: Map is intended to be used as reference only.
No warranty for accuracy provided.

Lake County
Evacuation Routes

Created by: Larry H. Kung
Date created: Oct. 6, 2006
Requested by: Standard Product
File name: EvacRoutes_Lake.pdf


Marion County
Evacuation Routes
Date created: Oct. 5, 2006
File name: EvacRoutes_Marion.pdf
DISCLAIMER: Map is intended to be used as reference only.
No warranty for accuracy provided.
0 1.5 3 6 Miles
Legend
Evacuation Routes
Alachua
Levy
Marion
Volusia
Archer
Williston
Ocala
Micanopy
Eustis
CORD 346
CORD 24
CORD 241
CORD 335
CORD 320
CORD 325
CORD 315
CORD 309
STHY 121
USHY 441
NW Hwy 320
N Hwy 329
W Hwy 318
E Hwy 318
NE Hwy 318
CORD 318
W Hwy 316
W Hwy 329
I 75 N
CORD 200a
E Hwy 316
E CORD 316
NE CORD 315
Hwy 316
Salt Springs Rd
Nfs 43
Nfs 88
Salt Springs Hwy
USHY 41
CORD 326
CORD 464
CORD 543
Nw
W Hwy 326
CORD 25a
USHY 301
NE 95th St
NE 49th St
NE 35th St
E Hwy 326
NE Hwy 315
CORD 315
SE Hwy 314
N
STHY 40
W Hwy 328
SW 20th Pl
SW 110th Ave
CORD 225a
NW 44th Ave
I 75 S
I 75 N
CORD 464a
Banyan Rd
Pine Rd
Silver Rd
Se
SW Sea Cliff Ave
SW Rainbow Lakes Blvd
SW 140th Ave
SW 121st Ter
SW 93rd Lane Rd
CORD 475
CORD 328
CORD 467
STHY 35
SE 46th Ave
USHY 27a
Oklawaha
W Hwy 40
STHY 484
STHY 200
CORD 475b
STHY 488
Marion Oaks Trl
N Deltona Blvd
N Athenia Dr
CORD 39
Marion Oaks Mnr
CORD 475a
I 75 S
SE Hwy 42
N Elkcam Blvd
N Lecanto Hwy
USHY 27
Marion Hwy
Griffin Ave
SE Hwy 452
CORD 450
CORD 42
W Mustang
STHY 486
STHY 44
CORD 491
STHY 19

Orange County

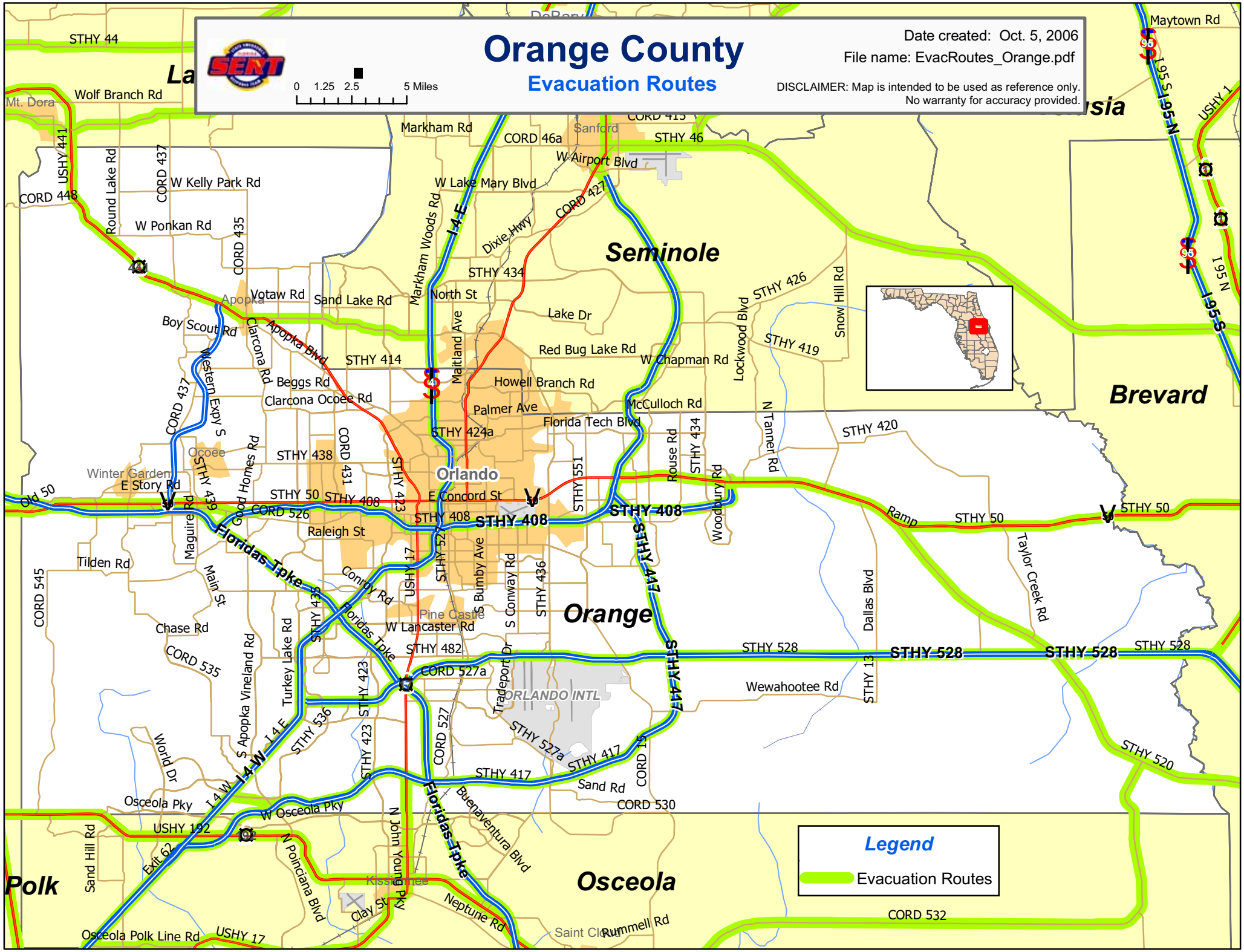
Evacuation Routes

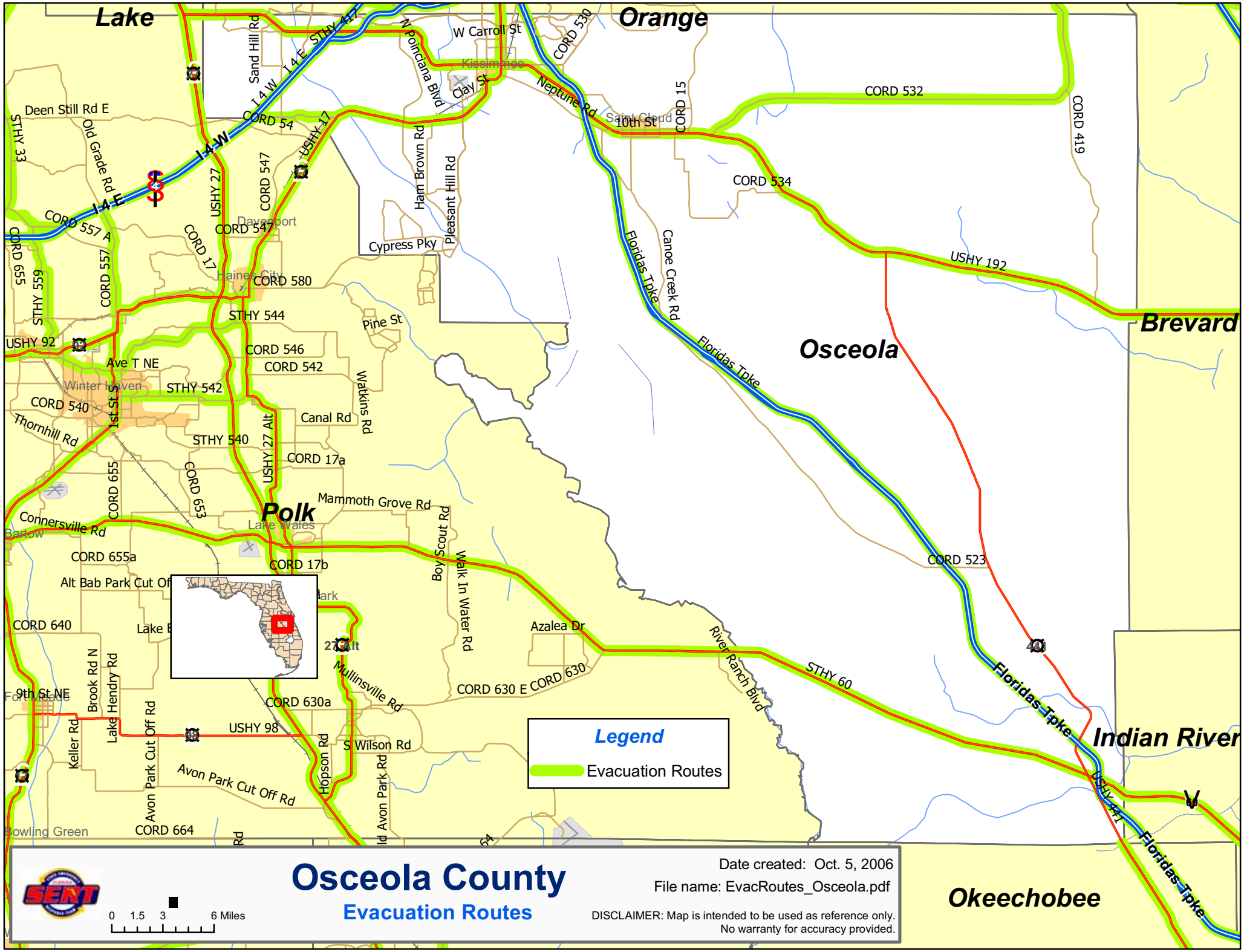
Date created: Oct. 5, 2006

File name: EvacRoutes_Orange.pdf

DISCLAIMER: Map is intended to be used as reference only.
No warranty for accuracy provided.

0 1.25 2.5 5 Miles





Osceola County

Evacuation Routes

Date created: Oct. 5, 2006

File name: EvacRoutes_Osceola.pdf

DISCLAIMER: Map is intended to be used as reference only. No warranty for accuracy provided.

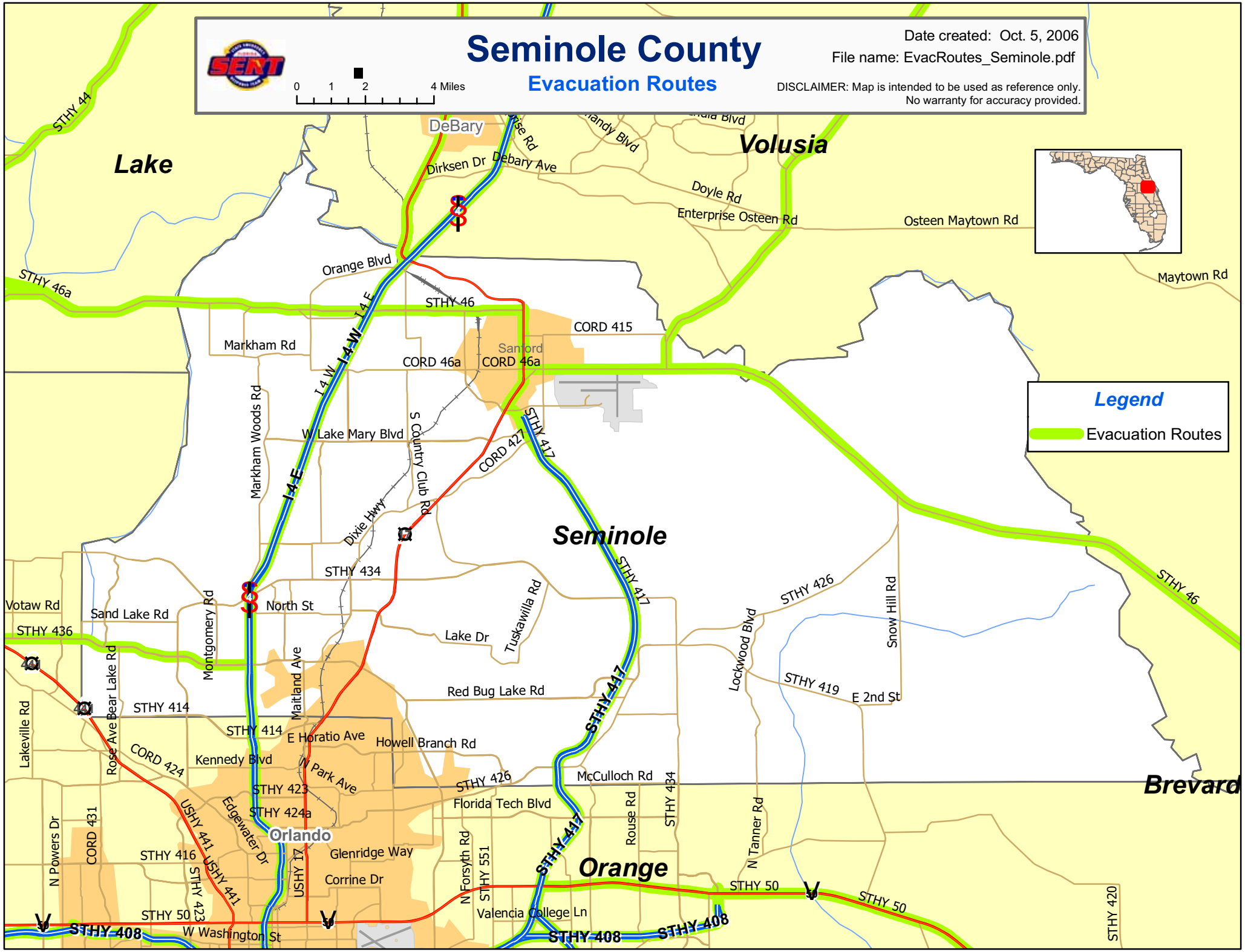
Seminole County

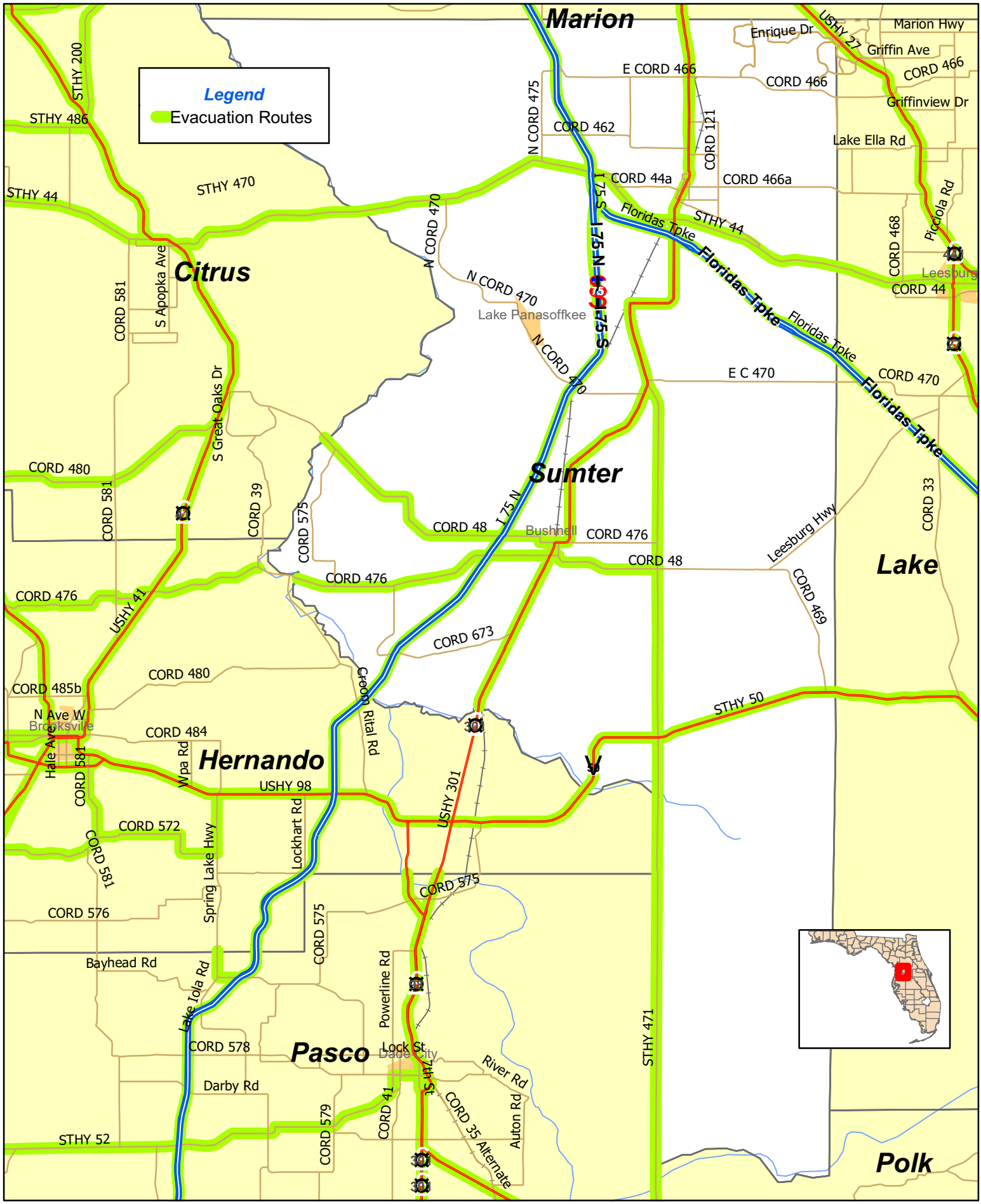
Evacuation Routes

Date created: Oct. 5, 2006
File name: EvacRoutes_Seminole.pdf

DISCLAIMER: Map is intended to be used as reference only.
No warranty for accuracy provided.

0 1 2 4 Miles





0 1.25 2.5 5 Miles

DISCLAIMER: Map is intended to be used as reference only. No warranty for accuracy provided.

DCA/DEM/GIS

Sumter County
Evacuation Routes

Created by: Larry H. Kung
Date created: Oct. 6, 2006
Requested by: Standard Product
File name: EvacRoutes_Sumter.pdf

DCA/DEM/GIS

0 2.5 5 10 Miles

DISCLAIMER: Map is intended to be used as reference only. No warranty for accuracy provided.

Volusia County
Evacuation Routes

Created by: Larry H. Kung
Date created: Oct. 6, 2006
Requested by: Standard Product
File name: EvacRoutes_Volusia.pdf

Appendix G

Model Proportionate Fair-Share Agreement

MODEL PROPORTIONATE FAIR-SHARE AGREEMENT[1]

This TRANSPORTATION PROPORTIONATE FAIR-SHARE AGREEMENT ("Agreement") is made and entered into by and between [DEVELOPER] ("Developer") and [LOCAL GOVERNMENT] ("_____") and the STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION ("FDOT").

WHEREAS, Developer is the owner and developer of the [NAME OF DEVELOPMENT], ("Project"), more particularly described on Exhibit "A" attached hereto (the "Property"); and

WHEREAS, Project is [PROJECT DESCRIPTION]; and

WHEREAS, Project traffic will impact [ROADWAY] which is currently operating at [THIS] level of service; and

WHEREAS, [ROADWAY] is a component of the [State Highway System or Strategic Intermodal System]; and

WHEREAS, the level of service for [ROADWAY] is set by [LOCAL GOVERNMENT or FDOT] and is [THIS]; and

WHEREAS, Project traffic will [CAUSE A LEVEL OF SERVICE DEFICIENCY or CONTRIBUTE TO A LEVEL OF SERVICE DEFICIENCY] on [ROADWAY]; and

WHEREAS, improvements to address the level of service on [ROADWAY] will not be under construction within three years after [LOCAL GOVERNMENT] approves the Project; and

WHEREAS, improvements to address level of service deficiency on [ROADWAY] [ARE/ARE NOT] currently included in [LOCAL GOVERNMENT]'s five year capital improvement plan; and

WHEREAS, Section 163.3180, Florida Statutes, authorizes use of proportionate fair-share contributions by developers to satisfy concurrency requirements; and

WHEREAS, [LOCAL GOVERNMENT] has adopted ordinance [number] for the purpose of assessing proportionate fair-share mitigation options for traffic impacts; and

WHEREAS, Project has therefore failed to satisfy the transportation concurrency requirement of [LOCAL GOVERNMENT]'S comprehensive plan; and

WHEREAS, Parties to this agreement have determined that [DESCRIPTION OF TRANSPORTATION IMPROVEMENT[1]] would sufficiently mitigate the Project's impact on [ROADWAY] and subsequently allow [LOCAL GOVERNMENT] to approve the Project; and

WHEREAS, the Parties to this agreement have determined that proportionate fair-share contribution is authorized for the Project pursuant to Section 163.3180, Florida Statutes and [LOCAL GOVERNMENT] ordinance [number];

NOW, THEREFORE, in consideration of the premises hereof, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Incorporation of Recitals.** The foregoing recitals are true and correct, and are hereby incorporated by the parties as part of this Agreement as if fully set forth herein.

2. **Proportionate Fair-Share Calculation.** The Developer, [LOCAL GOVERNMENT], and FDOT do hereby acknowledge and agree that [TRANSPORTATION IMPROVEMENT] is necessary to mitigate the traffic impacts of the Project. Based upon the best estimates of FDOT, all parties agree that [THIS AMOUNT] is the Developer's proportionate fair-share contribution ("Proportionate Fair-Share") required under Chapter 163, Florida Statutes, and [LOCAL GOVERNMENT PROPORTIONATE FAIR-SHARE ORDINANCE] necessary for [TRANSPORTATION IMPROVEMENT], notwithstanding any subsequent variance in the actual cost of needed transportation improvements for the Project.

3. **Proportionate Fair-Share Contribution by Developer.** The Developer shall contribute the Proportionate Fair-Share to [FDOT/LOCAL GOVERNMENT] [AT/PRIOR TO] upon [TIME SCHEDULE]. The contribution shall be in the form of [MONETARY PAYMENT (letters of credit or other security instruments are not acceptable in lieu of a cash deposit for purposes of FDOT) and/or LAND DEDICATION]. [For LAND DEDICATION] The legal description of the property to be dedicated is attached hereto as Exhibit "A." The dedication shall be in the form of a warranty deed to FDOT. An appraisal establishing the fair market value of the dedication is attached hereto as Exhibit "B."

1 "Transportation Improvement" means the project(s) or programs agreed upon by the local government and developer, and (when SIS facilities are impacted) FDOT, as the basis for computing a proportionate fair-share contribution. Transportation Improvements include, but are not limited to, new capacity roadway project, alternate corridor improvement, frontage road improvement within the existing corridor, or transit improvements.

4. **Approval by Local Government.** The [LOCAL GOVERNMENT] shall issue a concurrency management certificate to Developer upon receipt of the Proportionate Fair-Share contribution from the Developer by [FDOT/LOCAL GOVERNMENT].

5. **Responsibilities of [LOCAL GOVERNMENT].** [For monetary payment] [LOCAL GOVERNMENT] shall immediately forward the Proportionate Fair-Share contribution to FDOT. [For either money or land] [LOCAL GOVERNMENT] shall work further with FDOT to identify additional local funding sources necessary to make the [TRANSPORTATION IMPROVEMENT] financially feasible in a _____ -year period. By executing this Agreement [LOCAL GOVERNMENT] agrees that it has a continuing obligation to dedicate future proportionate fair-share contributions by other developers impacting [ROADWAY] to FDOT to fund the [TRANSPORTATION IMPROVEMENT].

6. **Capital Improvement Plan [if necessary].** [LOCAL GOVERNMENT] shall add the [TRANSPORTATION IMPROVEMENT] to its five-year capital improvement plan at the next annual update of the [LOCAL GOVERNMENT] comprehensive plan. A copy of this Agreement shall be attached or noted in the capital improvement plan update forwarded to the Department of Community Affairs in order to determine the plan's financial feasibility and to extend the time of commencement of construction of [TRANSPORTATION IMPROVEMENT] to a _____ -year time frame pursuant to Section 163.177(16)(b)1, Florida Statutes.

7. **Responsibilities of FDOT.** [For monetary payment] FDOT shall earmark the Proportionate Fair-Share received from the [LOCAL GOVERNMENT/DEVELOPER] for the [TRANSPORTATION IMPROVEMENT] and place the funds in a separate account for exclusive use for the [TRANSPORTATION IMPROVEMENT]. [For monetary payment] By executing this Agreement, FDOT agrees that it has a continuing obligation to place into this account future proportionate fair-share payments by other developers impacting [ROADWAY] to fund the [TRANSPORTATION IMPROVEMENT]. [For land dedication] By executing this Agreement, FDOT agrees that it has a

continuing obligation to place into a separate account for exclusive use for [IMPROVEMENT OF ROADWAY] future proportionate fair-share payments by other developers impacting [ROADWAY] to fund the [TRANSPORTATION IMPROVEMENT]

8. **Feasibility.** At this time, based upon existing funding and reasonable projections for future funding, the parties agree that the [TRANSPORTATION IMPROVEMENT] is financially feasible and can be designed, permitted, and constructed in an expeditious manner. However, should the [TRANSPORTATION IMPROVEMENT] subsequently be deemed not feasible for any reason, FDOT reserves the right to transfer the funds received pursuant to this Agreement to an alternative transportation project or projects that will address the level of service deficiency identified herein. In such event, FDOT will consult the [LOCAL GOVERNMENT] regarding alternatives.

9. **Construction of Improvements.** FDOT and [LOCAL GOVERNMENT] acknowledge and agree that the Developer's Proportionate Fair-Share shall be applied toward [TRANSPORTATION IMPROVEMENT] as described herein in accordance with the standards and design criteria of FDOT with respect to such facilities. [Responsibility for actual construction of improvements to be determined in individual agreement]

10. **Satisfaction of Transportation Improvement Requirements.** FDOT and [LOCAL GOVERNMENT] hereby acknowledge and agree that, upon the receipt of Developer's Proportionate Fair-Share as required herein, the Developer shall be deemed to have satisfied all requirements under Chapter 163, Florida Statutes, for the mitigation of traffic impacts of the Project on all state and regional roads without regard to whether the [TRANSPORTATION IMPROVEMENT] is constructed or the Proportionate Fair-Share contribution is used otherwise.

11. **Governing Law/Binding Effect.** This Agreement shall be interpreted and governed by Florida Law. Each of the parties hereto warrants and represents that this Agreement is valid, binding and enforceable against them in accordance with the terms and conditions of Florida law.

12. **Remedies.** The parties hereto shall have all rights and remedies provided herein and under Florida Law with respect to the enforcement of this Agreement, and hereby acknowledge and agree

that each party hereto shall have the right and remedy to bring an action or actions for specific performance and such other equitable or injunctive relief, as appropriate and necessary, to enforce this Agreement. The parties agree that the venue for any enforcement action shall be the Circuit Court in _____. The parties further acknowledge and agree that, in the event the Developer fails to pay the Proportionate Fair-Share as provided in this Agreement, no further building permits for the Project shall be issued until the required payment is made.

13. **Notice of Default.** The parties acknowledge and agree that no party shall be considered in default for failure to perform under this Agreement until such party has received written notice specifying the nature of such default or failure to perform, and said party fails to cure said default or fails to perform within thirty (30) days of receipt of written notice.

14. **Notices.** All notices which are required or permitted under this Agreement shall be given to the parties by certified mail with return receipt requested, hand deliver, or express courier, and shall be effective upon receipt when delivered to the parties at the addresses set forth herein below (or such other address as provided by the parties by written notice delivered in accordance with this paragraph):

INSERT NAMES AND ADDRESSES HERE

15. **Amendments.** No amendment, modification, or other changes in this Agreement shall be binding upon the parties unless in writing executed by all of the parties.

16. **Successors and Assigns Bound.** The rights and obligations contained in this Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the parties hereto, including any successor in title to the Developer to all or any part of the Property.

17. **Recording.** The Developer shall record this Agreement in the Public Records of _____ County at the Developer's expense.

18. **Effective Date.** This Agreement shall become effective upon the date it is executed by the last party to execute the Agreement.

19. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which, when executed and delivered, shall be an original, but all counterparts shall together constitute duplicates of one and the same instrument.