

Chapter 9 - Concurrency Management Element

Page	Section	Summary of Changes
1	Definititons	added "final" to plat approval
4	5	replaced paragraph about "enforceable development agreement" with "proportionate share agreement"
4	7	replaced sentence about facilities & services in place no later than 3 years to projects in town center overlay and town center flex overlay exempt
12	5	replaced paragraph about "enforceable development agreement" with "proportionate share agreement"
13	7	replaced sentence about facilities & services in place no later than 3 years to projects in town center overlay and town center flex overlay exempt
14	Policy 1.1.5	deleted entire policy

CONCURRENCY MANAGEMENT SYSTEM ELEMENT



TOWN OF HOWEY-IN-THE-HILLS

LAKE COUNTY, FLORIDA

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AMENDED ON APRIL 22, 2020

**CONCURRENCY MANAGEMENT SYSTEM ELEMENT
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CHAPTER 9 CONCURRENCY MANAGEMENT SYSTEM ELEMENT

Definitions

The following definitions shall apply to the Concurrency Management System.

Concurrency Facilities: Public facilities and services for which a level of service must be met concurrent with the impacts of development or an acceptable deadline shall include:

- a. Potable Water.
- b. Sanitary Sewer.
- c. Drainage.
- d. Recreation.
- e. Solid Waste.
- f. Transportation.
- g. Public Schools.

“Proceeding in Good Faith”: Identifiable actions taken by an applicant of an approved final development order to proceed with actual construction and implementation of the final development plan.

Final Development Order: The official authorization from the Town of Howey-in-the-Hills approving the final development plans for a proposed development project. The issuance of a final development order issued after the effect date of the ordinance adopting the Comprehensive Plan shall only occur if the final development plan complies with the goals, objectives, and policies established in the *Comprehensive Plan*.

Final development orders shall include final subdivision plan approvals, final plat approval, final site plan approval, and building permit.

A. OVERVIEW OF THE CONCURRENCY MANAGEMENT SYSTEM

The Concurrency Management System (CMS) is a mechanism to assist in the implementation of the goals, objectives, and policies of the Town's *Comprehensive Plan*. The purpose of the CMS is to establish an ongoing mechanism which ensures facilities and services needed to support development will be available concurrent with the impacts of such development. Prior to the issuance of a development order and development permit, the CMS must ensure the adopted level of service standards required for the following facilities will be maintained: roads; potable water; sanitary sewer; solid waste; stormwater management; parks and recreation; and public schools.

The CMS is an accounting system that maintains a record of the existing levels of service and what impacts, if any, can be expected as a result of proposed developments, facility expansions, and other factors that can affect the adopted level of service standards of a community.

B. REQUIREMENTS FOR CONCURRENCY

The Town will require that all development meet the requirements of concurrency. The following are the requirements for concurrency:

Minimum requirements for Concurrency. The Town shall maintain a concurrency management system to ensure public facilities and services needed to support development are available concurrent with the impacts of such development and will address the following items.

For potable water, sewer, solid waste, and drainage, at a minimum, the following standards will satisfy the concurrency requirement:

- (1) the necessary facilities and services are in place at the time a final development order is issued; or
- (2) a final development order is issued subject to the condition that the necessary facilities and services will be in the place when the impacts of the development occur; or
- (3) the necessary facilities are under construction at the time a final development order is issued; or
- (4) the necessary facilities and services are guaranteed in an enforceable development agreement. An enforceable development agreement may include, but is not limited to, development agreements pursuant to Section 163.3220, Florida Statutes or an agreement or development order issued pursuant to Chapter 380, Florida Statutes. The agreement must guarantee

that the necessary facilities and services will be in place when the impact of development occurs; or

- (5) the necessary facilities and services are in place no later than the issuance of a certificate of occupancy as required by Chapter 163.3180 F.S.

For parks and recreation, at a minimum, the following standards will satisfy the concurrency requirement:

- (1) at the time the final development order is issued, the necessary facilities and services are the subject of a binding executed contract which provides for the commencement of the construction of the required facilities or the provision of services within one year of the issuance of the final development order; or
- (2) the necessary facilities and services are guaranteed in an enforceable development agreement which requires the commencement of the construction of the facilities or the provision of services within one year of the issuance of the applicable development order. An enforceable development agreement may include, but is not limited to, development agreements pursuant to Section 163.3220, Florida Statutes or an agreement or development order issued pursuant to Chapter 380, Florida Statutes; or
- (3) the necessary facilities and services are in place no later than 1 year after issuance of a certificate of occupancy as required by Chapter 163.3180 F.S.

For roads, at a minimum, the following standards will satisfy the concurrency requirement:

- (1) the necessary facilities and services are in place at the time a final development order is issued; or
- (2) a final development order is issued subject to the condition that the necessary facilities and services will be in place when the impacts of the development occur; or
- (3) the necessary facilities are under construction at the time a final development order is issued; or
- (4) at the time the final development order is issued, the necessary facilities and services are the subject of a binding executed contract which provides for the commencement of the construction of the required facilities or the provision of services within three years of the approval of the development order; or

- (5) ~~The necessary facilities and services are guaranteed in an enforceable development agreement which requires the commencement of the construction of the facilities or the provision of services within three years of the approval of the applicable development order as required in Chapter 163.3180, F.S. An enforceable development agreement may include, but is not limited to, development agreements pursuant to section 163.3220, Florida Statutes or an agreement or development order issued pursuant to Chapter 380, Florida Statutes; or~~

The necessary facilities are guaranteed through a proportionate share agreement which meets the requirements of Chapter 163.3180 F.S.

- (6) the necessary facilities and services are guaranteed in an enforceable development agreement that includes the provisions of paragraphs 1-3 above. An enforceable development agreement may include, but is not limited to, a development order issued pursuant to Chapter 380, Florida Statutes. The agreement must guarantee that the necessary facilities and services will be in place when the impacts of the development occur; or

- (7) ~~the necessary facilities and services are in place or under construction no later than 3 years after issuance of a certificate of occupancy.~~

In order to promote non-residential development in the Central Avenue corridor, projects proposed in the Town Center Overlay and Town Center Flex Overlay shall be exempt from traffic concurrency.

For school facilities, the following standards will 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.

C. ISSUANCE OF DEVELOPMENT ORDERS OR PERMITS

The Town's CMS shall ensure all development can meet the requirements for concurrency prior to the issuance of a final development order or permit. All applicants for final development orders or permits shall be required to provide all information deemed necessary by the Town so that the impacts of the proposed development may be accurately assessed. Once the Town has determined that a proposed development meets the requirements for concurrency, and has issued a Town development order or permit, the Town shall not revoke that development order or permit because of a subsequent facility capacity deficiency, unless the proposed development would cause unhealthy or unsafe conditions, or unless the proposed development was issued a development order or permit under erroneous information supplied by the proposed developer, or unless the proposed developer fails to meet the conditions of approval of the final development order or permit. In this latter situation, certificates of occupancy may also be denied.

The Town shall establish expiration dates for development orders, development permits, and for the reserved capacity of public facilities allocated to specific development orders or permits as required by concurrency.

Howey-in-the-Hills shall annually determine the available capacity for public facilities for which the Town has operational or maintenance responsibility, and for State and County roads. Owners or operators of public facilities not operated, maintained, or owned by the Town shall supply the Town with available capacity information annually, or as otherwise reasonable depending on development activity that requires the use of such a facility.

D. GOAL, OBJECTIVE AND POLICY STATEMENTS SUPPORTING CONCURRENCY

The concurrency doctrine is supported by various goals, objectives, and policies throughout the Town's *Comprehensive Plan*. These policy statements are adopted by the Town and will be implemented by the concurrency management system. The policy statements generally establish standards and criteria for concurrency.

E. PUBLIC FACILITY CAPACITY AND LEVEL OF SERVICE INVENTORY

As part of its CMS, the Town will be responsible for the collection and maintenance of an inventory of all public facilities and services. The inventory shall be based on the most recently available information and shall be used to monitor the adopted level of service standards and to determine public facility capacity. This information shall be made available to the public and shall be updated annually by December 1 of each year.

The following inventories shall be maintained by Howey-in-the-Hills in order to evaluate the concurrency requirements of proposed development and expansions to an existing development and to assess existing and future capacity of public facilities and services:

1. Transportation

The Town will maintain an inventory of the level of service on roadway links within its jurisdiction. The existing level of service will be based on the most recent traffic count data reported by the Florida Department of Transportation and Lake County for each segment identified in the *Transportation Element* of this *Comprehensive Plan* or plan amendment. Traffic count data and level of service standards will be updated yearly, based on reported information from the FDOT and Lake County. The inventory shall, at a minimum, include the following:

- a) the adopted level of service standard.
- b) existing facility capacities and deficiencies.
- c) capacity reserved for approved but unbuilt development.
- d) the projected capacities or deficiencies attributable to approved but unbuilt development; and
- e) any existing or scheduled road improvement to be made on Town, County, or State maintained roadways within the Town's jurisdiction; or improvements to be made by other public agencies or in conjunction with approved development.

2. Potable Water

An inventory of the Town's potable water system will, at a minimum, include the following:

- a) the level of service standards adopted in the *Comprehensive Plan*.
- b) existing design capacities and system deficiencies.
- c) capacity reserved for approved but unbuilt development.
- d) the projected capacities or deficiencies attributable to approved but unbuilt development; and
- e) any improvements or expansions made to the system by the Town or any approved development order, in the current fiscal year, and the impact on existing capacities or deficiencies.

3. Sanitary Sewer

For all developments on a central sanitary system, the Town will maintain an inventory that includes:

- a) the level of service standards adopted in the *Comprehensive Plan*.

- b) existing design capacities and system deficiencies.
- c) the permitted capacity.
- d) capacity reserved for approved but unbuilt development.
- e) the projected capacities or deficiencies attributable to approved but unbuilt development; and
- f) any improvements or expansions made to design or permitted capacity by the Town or any approved development order, in the current fiscal year, and the impact on existing capacities or deficiencies.

4. Solid Waste Disposal

An inventory of the Town's solid waste disposal system will, at a minimum, include the following:

- a) the level of service standards adopted in the *Comprehensive Plan*.
- b) existing and projected design capacities of all applicable solid waste disposal facilities.
- c) capacity reserved for approved but unbuilt development.
- d) the projected capacities or deficiencies attributable to approved but unbuilt development; and
- e) any improvements or expansions made to the design capacity, and the impact on existing capacities or deficiencies.

5. Stormwater Management

An inventory of the Town's stormwater management facilities will, at a minimum, include the following:

- a) the level of service standards adopted in the *Comprehensive Plan*.
- b) the existing level of service measured by storm event; and
- c) any proposed stormwater management facilities that will impact the capacity of the Town's stormwater management facilities.

6. Recreation and Open Space

An inventory of the Town's recreational sites and facilities will, at a minimum, include the following:

- a) the existing acres of recreational sites as outlined in the *Recreation and Open Space Element*.
- b) the adopted level of service standard as outlined in the *Recreation and Open Space Element*.
- c) the existing capacities or deficiencies of the Town's recreation system.
- d) capacity reserved for approved but unbuilt development.

- e) the projected capacities or deficiencies attributable to approved but unbuilt development; and
- f) any improvements or expansions made to the system by the Town or any approved development order, in the current fiscal year, and the impact on existing capacities or deficiencies.

F. CONCURRENCY MONITORING SYSTEM

In addition to maintaining an inventory of public facilities and services, Howey-in-the-Hills will also be responsible for maintaining a record of public facility and service capacities or volumes which are committed for approved developments as a result of development orders issued by the Town. If service is provided by an entity other than the Town, this will require coordination between the service provider and the Town in order to maintain an accounting system which accurately tracks approved developments.

Accountability shall be established by reserving capacity from the total available capacity for all approved development orders. Once capacity has been reserved for a specific development, it cannot be reassigned to another development prior to the expiration of the first development's development order or permit. Capacity reservations shall be renewed yearly in order to be accounted for in the annual concurrency process. Upon the expiration of an approved development order with concurrency standing, which has not been implemented, or which the Town has determined to have been abandoned by the applicant, the capacity allocated to the proposed development shall be deleted. Deleted capacity shall then become available to other proposed developments. A priority waiting list shall be established for the purpose of allocating deleted capacity. When determining how much capacity is available for proposed developments, the Town shall consider all capacity that has been reserved for approved development orders.

G. CONCURRENCY ASSESSMENT

The Howey-in-the-Hills Town Council or its designee will be responsible for determining whether concurrency will be met when it considers applications for development orders for final site plans and/or final subdivision plans. When reviewing applications for development orders, the Council shall perform an assessment to determine whether public facilities will be available concurrent with the impacts of the proposed development. A facility inventory, as outlined above, shall be used as a basis for establishing existing conditions. The ability of existing public facilities to service new development shall be determined based on the following criteria:

- (a) the ability of existing facilities to accommodate the proposed development at the adopted level of service.
- (b) existing facility deficiencies which will need to be corrected prior to the completion of the proposed development.
- (c) facility improvements or additions needed to accommodate the impacts of proposed development at the adopted level of service standard.

- (d) the date facility improvements or additions need to be completed in order to maintain the adopted level of service for the public facilities affected by the proposed development.

H. GOALS, OBJECTIVES AND IMPLEMENTING POLICIES

GOAL 1: The Town shall ensure that public facilities and services needed to accommodate growth during the planning period (up to 2035) are safely and efficiently provided concurrently with associated growth.

OBJECTIVE 1.1: *Implementing the Concurrency Management System.* To implement the Town's *Concurrency Management System* and ensure that public facilities and services needed to support development are available concurrent with the impacts of such development.

POLICY 1.1.1: *Assist Applicants of Development.* The Land Development Regulations shall continue to contain a descriptive guide to assist developers and other interested parties in understanding the concurrency determination process, steps to performing a concurrency review, and the development review process involving the issuance of a certificate of concurrency.

POLICY 1.1.2: *Adoption of Level of Service Standards.* The standards for levels of service for each type of public facility mandatorily subject to concurrency requirements shall apply to development orders issued by the Town of Howey-in-the-Hills upon the commencement date established within the adopting ordinance applicable to this *Comprehensive Plan*.

POLICY 1.1.3: *Concurrency Requirements.* The Town Council shall ensure that the impacts of development on public facilities within the Town's jurisdictional area occur concurrently with such development prior to an issuance of a final development order.

POLICY 1.1.4: *Requirement for Public Facilities and Services.* The Town's *Concurrency Management System* shall provide that public facilities and services needed to support development are available concurrent with the impacts of such development by meeting the following standards prior to issuance of a final development order.

- a. For potable water, sanitary sewer, solid waste, and drainage, at a minimum, the following standards will satisfy the concurrency requirement:
 - (1) the necessary facilities and services are in place at the time a final development order is issued; or

- (2) a final development order is issued subject to the condition that the necessary facilities and services will be in the place when the impacts of the development occur; or
 - (3) the necessary facilities are under construction at the time a final development order is issued; or
 - (4) the necessary facilities and services are guaranteed in an enforceable development agreement. An enforceable development agreement may include, but is not limited to, development agreements pursuant to Section 163.3220, Florida Statutes or an agreement or development order issued pursuant to Chapter 380, Florida Statutes. The agreement must guarantee that the necessary facilities and services will be in place when the impact of development occurs; or
 - (5) the necessary facilities and services are in place no later than the issuance of a certificate of occupancy as required by Chapter 163.3180 F.S.
- b. For parks and recreation, at a minimum, the following standards will satisfy the concurrency requirement:
- (1) at the time the final development order is issued, the necessary facilities and services are the subject of a binding executed contract which provides for the commencement of the construction of the required facilities or the provision of services within one year of the issuance of the final development order; or
 - (2) the necessary facilities and services are guaranteed in an enforceable development agreement which requires the commencement of the construction of the facilities or the provision of services within one year of the issuance of the applicable development order. An enforceable development agreement may include, but is not limited to, development agreements pursuant to Section 163.3220, Florida Statutes or an agreement or development order issued pursuant to Chapter 380, Florida Statutes; or
 - (3) the necessary facilities and services are in place no later than 1 year after issuance of a certificate of occupancy.

- c. For roads, at a minimum, the following Standards will satisfy the concurrency requirement:
- (1) the necessary facilities and services are in place at the time a final development order is issued; or
 - (2) a final development order is issued subject to the condition that the necessary facilities and services will be in place when the impacts of the development occur; or
 - (3) the necessary facilities are under construction at the time a final development order is issued; or
 - (4) at the time the final development order is issued, the necessary facilities and services are the subject of a binding executed contract which provides for the commencement of the construction of the required facilities or the provision of services within three years of the approval of the development order, or
 - (5) ~~The necessary facilities and services are guaranteed in an enforceable development agreement which requires the commencement of the construction of the facilities or the provision of services within three years of the approval of the applicable development order as required in Chapter 163.3180, F.S. An enforceable development agreement may include, but is not limited to, development agreements pursuant to section 163.3220, Florida Statutes or an agreement or development order issued pursuant to Chapter 380, Florida Statutes; or~~

~~The necessary facilities are guaranteed through a proportionate share agreement which meets the requirements of Chapter 163.3180 F.S.~~
 - (6) the necessary facilities and services are guaranteed in an enforceable development agreement that includes the provisions of paragraphs 1-3 above. An enforceable development agreement may include, but is not limited to, a development order issued pursuant to Chapter 380, Florida Statutes. The agreement must guarantee that the necessary facilities and services will be in place when the impacts of the development occur; or

- (7) ~~the necessary facilities and services are in place or under construction no later than 3 years after issuance of a certificate of occupancy as required by Chapter 163.3180 F.S.~~
Non-residential and mixed use projects in the Town Center Commercial Overlay District are exempt from traffic concurrency.
- d. For school facilities, the following standards will 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.
- e. In determining the availability of services or facilities, a developer may propose, and the Town Council may approve developments in stages or phases so that facilities and services needed for each phase shall be available.
- f. The latest point in the application process for the determination of concurrency is prior to the approval of a final development order or permit.

~~**POLICY 1.1.5: Roadways Concurrency Requirements and 5-Year CIP.** In addition to guidelines established in Policy 1.1.4, roadways facilities will be~~

~~deemed concurrent based on the adopted Five-Year Capital Improvements Program (CIP) as described in the following criteria:~~

- ~~1. The Five-Year CIP and the Capital Improvements Element of the Town's Comprehensive Plan are financially feasible.~~
- ~~2. the Five-Year CIP includes improvements necessary to correct any identified facility deficiencies and maintain adopted levels of service for existing and permitted development.~~
- ~~3. The Five-Year CIP is a realistic, financially feasible program based on currently available revenue sources and development orders will only be issued if the public facilities necessary to serve the development are available or included in the Five-Year Schedule of Capital Improvements.~~
- ~~4. The Five-Year CIP identifies whether funding is for design, engineering, consultant fees, or construction and indicates, by funded year, how the dollars will be allocated.~~
- ~~5. The Five-Year CIP identifies the year in which actual construction of the roadway project will occur and only those projects scheduled for construction within the first three years of the Howey-in-the-Hills or Florida Department of Transportation five-year programs will be utilized for concurrency determination.~~
- ~~6. A plan amendment will be required in order to eliminate, defer, or delay construction of any roadway facility or service which is needed to maintain the adopted level of service standard.~~