

Article 8 - Concurrency

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8.1 Definitions

- A. *Capital improvements* means land acquisition, site development, equipment or other facilities, used to provide public facilities.
- B. *Level of service* means an indicator of the extent or degree of service provided by or proposed to be provided by a public facility based on and related to the operational characteristics of the public facility.
- C. *Fair share* means the cost of public facilities needed to serve a proposed development based on the impact of the development to the public facilities. The fair share shall first be determined by the director of the department responsible for maintaining the facilities and set forth in a final development order or a separate fair share assessment contract. The property owner or developer may provide his own analysis of what should constitute a fair share cost, provided the analysis is based on generally accepted criteria in this state for fair share assessments.
- D. *Public facilities* means all sanitary sewer, solid waste, drainage, potable water, park, recreation and road facilities described in the City of Crescent City Comprehensive Plan.

8.2 Exemptions

- A. The following development activity is recognized as exempt for purposes of complying with this section:
 - 1. Development found to be vested to concurrency pursuant to Article 8.2 of this code.
 - 2. The replacement of conforming structures destroyed by fire, hurricanes, tornadoes, or other acts of God not exceeding the area and cubic content of the structure prior to its destruction.
- B. De minimis development. If a proposed development includes land use of such low intensity as to have a de minimis effect, if any, upon the LOS standards set forth in the City of Crescent City Comprehensive Plan, the development shall be exempt from concurrency review. The following development activities shall be deemed de minimis:
 - 1. The construction of accessory structures, except accessory apartments; swimming pools; fences; communications towers; and signs.

2. The removal of trees.
 3. A single-family residential unit on a single, previously platted lot that may be developed without a variance.
 4. For transportation LOS standards only, the proposed development meets all the requirements specified in F.S. § 163.3180(6), which provides a de minimis impact as an impact not affecting more than one percent of the maximum volume at the adopted level of service of the affected transportation facility as determined by the local government.
 5. With the exception of paragraphs (1) through (3) above, 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 one hundred and ten (110) percent of the maximum volume at the adopted level of service of the affected transportation facility.
- C. Existing urban service area. To promote urban infill development, if the proposed development is a redevelopment project located within a defined and mapped existing urban service area or enterprise zone with public facilities such as sewage treatment systems, roads, schools and recreation areas already in place, it shall be exempt from these concurrency requirements for up to one hundred and ten (110) percent of the impact of the previously existing development per [Rule 9J-5.055(3)(c)6, Florida Administrative Code].

8.3 Level of Service Standards

The level of service (LOS) standards for public facilities and services contained in the City of Crescent City Comprehensive Plan as identified in Table 8.1 below are hereby adopted.

Table 8.1 —Level of Service Standards for Public Facilities and Services

Required Facilities	Comprehensive Plan Element	Comprehensive Plan Goals, Objectives and Policies	LOS
Wastewater (or Sanitary Sewer)	Public Facilities Element	Policy D.1.1.1	92 gallons per capita per day Peak: 130 gallons per capita per day
Parks and Recreation	Recreation/Open Space Element	Policy F.1.2.1	Parks: 6 acres per 1000 persons Open space 25 acres per 1000 persons
Roads	Public Facilities Element	Policy D.1.1.1	LOS "C" Arterials LOS "D" other roadways

Stormwater Management (or Drainage)	Public Facilities Element	Policy D.1.1.1	See Stormwater policies
Solid Waste	Public Facilities Element	Policy D.1.1.1	3.35 pounds/person/day
Potable Water	Public Facilities Element	Policy D.1.1.1	116 gallons per capita per day

8.4 Concurrency Requirements

A. *General requirement.* No development approval shall be granted by the City of Crescent City unless adequate public facilities will be available to handle the impacts of the proposed development and maintain the City's adopted LOS Standards concurrent with those impacts. Thus, the City shall not grant a development approval unless the following standards are met:

1. The necessary facilities and services are in place at the time the development approval is issued; or
2. The development approval is subject to the condition 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 the development approval is issued; or
4. The necessary facilities and services are guaranteed in an enforceable contract, development agreement or development order to ensure the necessary facilities and services will be in place when the impacts of the development occur, and the applicant or developer will pay his fair share of the costs incurred to fulfill the need for the facilities and services created by proposed development.

B. *Potable water, sanitary sewer, solid waste, and stormwater management.* For potable water, sanitary sewers, solid waste and stormwater management, the concurrency management requirements may only be satisfied by ensuring the standards in paragraph (A) above are met. Additionally, any minimum lake levels established by the St. Johns River Water Management District shall not be exceeded by surface water withdrawals.

C. *Parks and recreation.* For parks and recreation, the concurrency requirement may be satisfied by ensuring that the standards in paragraph (A) above are met or by the following:

1. In lieu of the requirements of paragraph (A), concurrency may be satisfied if the development order or permit is issued subject to the condition the City of Crescent City has dedicated or acquired the acreage for the necessary facilities and services at the time the certificate of occupancy or its equivalent is issued, or the developer's fair share of the funds needed to acquire such facilities and services are committed; and

2. The necessary facilities and services are guaranteed in a binding and enforceable executed contract, development agreement or development order requiring the services to be in place and under construction not more than one year from when the impacts from development occur.
3. In lieu of paying its fair share for upgrading or expanding existing public parks facilities and open space in order to meet the LOS standards of the comprehensive plan, an applicant may elect to dedicate land and facilities for parks, recreation, and open space, subject to approval by the City Commission. Dedicated land and facilities for parks, recreation and open space must be appropriately located, accessible to the general public, suitable for recreational use, and available for use within one year of issuance of the certificate of occupancy for the proposed development.
 - a. All lands dedicated for use as open space or recreation shall be subject to a covenant restricting the use of the dedicated land.
 - b. Required buffer yards, setbacks and stormwater drainage or retention ponds shall not be utilized to fulfill open space and recreational LOS requirements under this code. However, a significant expansion of any such buffer yard, set back or stormwater drainage or retention pond may be considered in evaluating an applicant's attempt to mitigate a proposed development's impact on the LOS for open space and recreational facilities.

D. *Roads.* For roads, the concurrency requirement may be satisfied by ensuring the standards in paragraph (A), above, are met or that the following alternative standards are met:

1. For roads included in the five-year schedule of capital improvements, the concurrency requirement may be satisfied by ensuring:
 - a. The improvements required to maintain or attain the LOS adopted for the impacted road are scheduled to commence within three years after the issuance of the certificate of occupancy, or its equivalent, pursuant to the City's five-year schedule of capital improvements; or
 - b. The necessary facilities and services are guaranteed in an enforceable, executed contract, development agreement or development order which requires the applicant to pay its fair share of the costs incurred to construct the needed facilities or provide services to maintain the established LOS, and the facilities or services are in place within one year of the issuance of the applicable development permit.
2. The City shall not allow any new development creating an LOS impact upon a backlogged road to occur, except for properties exempt from these requirements pursuant to this Article, unless a final development order is subject to the adoption and implementation of an area-wide traffic mitigation plan. An area-wide traffic mitigation plan may include, but not be limited to the following mitigation measures:
 - a. Turn lanes.
 - b. Signalization.
 - c. Van or carpool programs; or

- d. Staggered work hours.
- 3. The City may not deny a developer or property owner a building permit or other development permit if the developer or property owner demonstrates a willingness and capability to maintain service levels consistent with the levels established in the City of Crescent City Comprehensive Plan by entering into an enforceable development agreement including the implementation of an area-wide traffic mitigation plan, where the developer has demonstrated compliance with the requirement to ensure one-hundred (100) percent mitigation of the impact of such development.
- 4. Compliance with these concurrency provisions shall not alleviate the applicant from mitigating any traffic safety concerns created by the project. Traffic safety mitigation shall be at the applicant's expense.

8.5 Concurrency Management Review Procedures

- A. *Generally.* Prior to the granting of any development approval, the City Manager or designee shall conduct the concurrency management review prescribed in this section.
- B. *Required information.* Where any type of development approval is sought, the following information shall be provided along with the initial application or submittal:
 - 1. *Traffic impact studies for larger developments.* Where the requested development approval would authorize development generating five hundred (500) or more daily trips and/or one hundred (100) or more AM or PM peak hour trips, the applicant shall provide the City with a traffic impact study. The number of trip ends shall be determined by reference to the most current edition of Institute of Traffic Engineers Trip Generation Manual, or to locally derived trip generation rates accepted as accurate. The study shall be prepared by a qualified traffic engineer and shall be signed and sealed by the professional engineer and shall include the following:
 - a. Projected average daily trip ends for the development.
 - b. Design capacity of the accessed roads and impact of the development on the LOS of the accessed roads and of the arterial and collector roads, and intersections thereof, within one mile of the project. All such roads and intersections within two (2) miles shall be analyzed for developments generating more than two thousand (2,000) trip ends per day.
 - c. Average generated peak-hour trip ends.
 - d. Analysis of projected on-site and off-site traffic patterns and turning movements.
 - e. Projected percentage of truck and bus traffic.
 - f. Recommended improvements made necessary by the development. These improvements shall be designed to maintain or improve the existing LOS within the study area provided in paragraph (b) above and to improve the efficiency of the streets and intersections impacted by the development.

This requirement may be waived by the City Manager, or their designee, for developments impacting upon road facilities with twenty (20) percent or more excess capacity and which are expected to use no more than five (5) percent of said excess capacity.

2. *Potable water.* Proof sufficient capacity exists as demonstrated by one of the following:
 - a. Documentation from the City of Crescent City indicating a well or water treatment facility regulated by the City has the capacity to serve the project as proposed, at or above the adopted LOS. If the ability to serve a proposed project is contingent upon planned facility expansion, details regarding such planned improvements shall also be submitted. Prior to the issuance of a final development order by the City, the applicant may be required to enter into a utility service agreement with the local government confirming the City's commitment and ability to serve the proposed project.
 - b. A notarized statement or affidavit indicating an existing potable water well on the site and documentation the well has sufficient capacity to meet all the demand for the development including necessary fire flow without resulting in a violation of any minimum lake levels established by the St. Johns River Water Management District.
 - c. Documentation by the Florida Department of Health or Department of Environmental Protection indicating a well or water treatment facility regulated by the department has the capacity to serve the project as proposed, at or above the adopted LOS.
3. *Wastewater.* Proof sufficient capacity exists as demonstrated by one of the following:
 - a. Documentation from the City of Crescent City indicating it has the capacity to serve the project as proposed, at or above the adopted LOS. If the ability of the City to serve a proposed project is contingent upon planned facility expansion, details regarding such planned improvements shall also be submitted. Prior to the issuance of a final development order by the City, the applicant may be required to enter into a utility service agreement with the City confirming the City's commitment and ability to serve the proposed project.
 - b. For proposed residential development to be serviced by an on-site sewage disposal system, the applicant must provide documentation from the Florida Department of Health demonstrating the onsite treatment and disposal system meets Department of Health standards and is eligible for permits.
 - c. Documentation by the Florida Department of Environmental Protection indicating a sanitary sewer facility regulated by the Department has the capacity to serve the project as proposed, at or above the adopted LOS.
4. *Stormwater management.* An affidavit from the property owner or developer, or both, acknowledging all stormwater quality and quantity requirements of this code, the Florida Department of Environmental Protection, and the St. Johns River Water Management District can and must be met prior to the issuance of a certificate of occupancy for the proposed development.

C. *Review procedure.*

1. *Completeness of submittal.* Any concurrency-related submittal shall be subject to a review for completeness as other permit submittals.
2. *Determination of compliance.* Upon finding the submittals are complete, the determination whether the proposed development meets the concurrency management standards in this section shall be made in the same manner and by the same decision-maker(s) as other determinations of compliance with this code.
3. *Certificate of concurrency determination.* The City shall issue a certificate of concurrency determination prior to issuing a final development order. The certificate shall be in letter format and shall indicate a temporary commitment of capacity of necessary public facilities for a period not to exceed one (1) year or until a final development order is issued, whichever occurs first.
4. *Certificate of concurrency reservation.*
 - a. The City shall issue a certificate of concurrency reservation as part of the final development order issued pursuant to this Article or normal permitting procedures, whichever may apply. Such certificate shall constitute a commitment of capacity of necessary public facilities for a period not to exceed the one of the following:
 1. For a residential subdivision, or phase, or unit thereof, including residential subdivision phases of planned unit developments, the certificate of concurrency reservation shall remain in effect for a period of sixty (60) months from the date of the construction permit's approval; provided both a valid permit is obtained and maintained, and the work proceeds in a timely manner as prescribed by a resolution of the City Commission. A certificate of concurrency reservation shall not remain valid if required permits are not obtained and work is not substantially underway within twenty-four (24) months from the date that the certificate is issued.
 2. For an individual single-family lot or parcel, the certificate shall remain in effect for a period of twenty-four (24) months for the purpose of obtaining a valid construction permit. If a permit is obtained within that twenty-four (24) month period, the certificate shall remain in effect as long as the permit is maintained, and construction proceeds in a timely manner. Lots included within subdivisions that have not passed a concurrency evaluation, or where the concurrency or vesting period has expired are included in this category. A single-family development meeting the exception criteria of Section 8.2 (B) 3. for a previously platted lot is exempt from concurrency review.
 3. For commercial, industrial, or multifamily developments, the certificate shall remain valid for thirty-six (36) months for the purpose of obtaining a construction permit. If the needed permits are obtained within the thirty-six (36) month period, the certificate shall

remain in effect for as long as the work authorized proceeds in a timely manner as provided for by resolution of the City Commission.

4. Where any of the applicable time periods in paragraphs above expire, a new concurrency evaluation, with payment of all applicable fees, must take place in order for the project to proceed.
 - b. A period of time other than those prescribed in paragraph (a) above may be agreed upon by the City and the applicant, provided the period of time is explicitly set forth in a binding development agreement or development order and the applicant provides one or more of the following assurances, acceptable to the City in form and amount, to guarantee the applicant's pro rata share of the cost of completing or providing any public facilities and services necessary to maintain the adopted LOS standards for the subject property:
 1. Cash escrow.
 2. Irrevocable letter of credit.
 3. Prepayment of capacity/connection charges.

The pro rata share shall be defined by the development agreement or development order at the time this customized certificate of concurrency is issued.
 - c. Whenever an applicant's pro rata share of a public facility is less than the full cost of the facility, the City shall do one of the following:
 1. Contract with the applicant for the full cost of the facility, including terms regarding reimbursement of the applicant for costs in excess of the applicant's pro rata share; or
 2. Require the applicant to establish a cash escrow, or commit to an irrevocable letter of credit or prepay capacity/connection charges, and have the City commit to providing such facilities with a specified time period not to exceed three (3) years after the issuance of the certificate of occupancy, or its equivalent, pursuant to the City's five-year schedule of capital improvements; or
 3. Amend the comprehensive plan to modify the adopted LOS standard so as to reduce the required facility to equal the applicant's needs.
 - d. No further determination of capacity for the subject property shall be required before the expiration of the certificate of concurrency reservation except any change in the density, intensity or land use which requires additional public facilities or capacity shall be subject to review and approval or denial by the City of Crescent City.
5. *Appealing City's concurrency determination.* A developer may challenge any concurrency determination made by the City Manager or designee to the Planning and Zoning Commission. If the appeal is to be successful, it shall be required to demonstrate through substantial, competent evidence sufficient capacity does exist by virtue of the following:

- a. The impacts of the proposed development will differ from the impacts estimated by the City as a result of special circumstances of the development.
- b. Based on the City's own information, the analysis being used indicates an error in its base data.
- c. In the case of roads, the applicant presents evidence through travel speed, distance and time studies demonstrating impacted roadway links actually operate at higher levels than indicated by the City. Methodology for such travel speed/distance/time studies shall be developed by public works before the commencement of such a study. In the event the travel time/distance/time studies are warranted, the City of Crescent City or its agent shall conduct such a study after receiving a fee from the applicant to cover the costs of conducting and analyzing the study. The applicant shall have the opportunity to review the methodology prior to the commencement of the study.

8.6 Options for Achieving Compliance

Where it appears, or it has been determined, there is a lack of capacity to service a proposed development, the developer should consider a variety of methods for achieving compliance. Some possibilities are as follows:

- A. *Plan amendment.* The developer may propose a plan amendment to lower the adopted LOS standard for the affected facilities and/or services.
- B. *Reduce impact of development.* The developer may propose a reduction in the scale or impact of the proposed development.
- C. *Phasing of development.* The developer may propose a phasing of the proposed development to match the availability of capacity with the timing of each phase of the development. Specific conditions for permitting each phase to proceed shall be included in an enforceable development agreement or development order to ensure necessary public facilities and services will be in place when the impacts of the development occur.
- D. *Development agreement.* The developer may propose a development agreement with the City of Crescent City to provide the required public facility capacity, at the developer's cost. Any development agreement must provide one or more of the following assurances, acceptable to the City in form and amount, to guarantee the applicant will provide the needed public facilities or services, or provide its pro rata share of the cost of completing or providing any public facilities and services which may be necessary to maintain the adopted levels of service standards for the subject property:
 - a. Cash escrow.
 - b. Irrevocable letter of credit.
 - c. Prepayment of capacity/connection charges.

- E. *Pro rata share.* Whenever an applicant's pro rata share of a public facility is less than the full cost of the facility, the City shall do one of the following:
 - a. Contract with the applicant for the full cost of the facility, including terms regarding reimbursement of the applicant for costs in excess of the applicant's pro rata share; or
 - b. Obtain assurances from other sources similar to those described above in this section; or
 - c. Amend the comprehensive plan to modify the adopted LOS standard so as to reduce the required facility to equal the applicant's needs.

- F. *Other transportation studies.* For those roadway facilities which indicate a lower LOS than the adopted standard of the City of Crescent City Comprehensive Plan, the City may consider an applicant's operating LOS assessment based upon procedures recognized in the transportation analysis profession and approved by the Florida Department of Transportation. A discussion of any proposed transportation system management and/or mitigation strategies shall be included in the study. The transportation study shall be signed and sealed by a registered professional engineer. The cost of this assessment shall be borne by the applicant. The results of the study shall be considered by the City in making its recommendations.

8.7 Concurrency Management Monitoring

- A. *Generally.* In order to ensure adequate necessary public facilities are available concurrent with the impacts of development on public facilities, the City shall establish and maintain the following monitoring practices.

- B. *Annual capital improvements element update.* As provided in the City of Crescent City Comprehensive Plan, the capital improvement element shall be updated annually during the budget review process. A report shall be prepared annually by the City Manager in conjunction with the budget review process detailing the existing conditions of the public facilities, including their available capacities based upon their LOS, and a forecast of the capacity of existing and planned capital improvements identified in the five-year capital improvement schedule for each of the five succeeding years. The forecast shall be based on the most recently updated schedule of capital improvements for each public facility. The local government shall also revise relevant population projections, update public facility inventories, update unit costs, and update revenue forecasts. The findings shall be fully considered in preparing any proposed amendments to the capital improvement element, and proposed amendments to the City's annual budget for public facilities, and the review of and issuance of final development orders or permits during the next year.

- C. *Recommendation of amendments to capital improvements element and annual budget.* Based upon the report described in paragraph (b) of this section, Planning & Zoning Commission shall annually propose to the City Commission any amendments to the capital improvements element and the City's annual budget for capital improvements made necessary by circumstances described in the report.

- D. *Annual report.* The City Manager or designee shall prepare an annual concurrency management report containing the following information:
1. A summary of actual development activity, including a summary of certificates of occupancy, indicating the quantity of development represented by type and square footage.
 2. A summary of building permit activity, indicating:
 - a. Those permits expired without commencing construction;
 - b. Those permits active at the time of the report;
 - c. The quantity of development represented by the outstanding building permits;
 - d. Those resulting from development permits issued prior to the adoption of this code; and
 - e. Those resulting from development permits issued pursuant to the requirements of this code.
 3. A summary of development permits issued, indicating:
 - a. Those permits expired without subsequent development permits;
 - b. Those permits completed during the period;
 - c. Those permits valid at the time of the report;
 - d. Those permits valid at the time of the report but do not have associated building permits or construction activity; and
 - e. The phases and quantity of development represented by the outstanding development permits.
 4. An evaluation of each facility and service indicating:
 - a. The capacity available for each at the beginning of the reporting period and the end of the reporting period.
 - b. The portion of the available capacity held for valid final development permits.
 - c. A comparison of the actual capacity to calculated capacity resulting from approved development orders and development permits.
 - d. A comparison of actual capacity and levels of service to adopted levels of service from the City of Crescent City Comprehensive Plan.
 - e. A forecast of the capacity for each facility based upon the most recently updated schedule of capital improvements in the capital improvements element of the Comprehensive Plan.

8.8 Exactions

Purpose. The City recognizes when a proposed development will not exceed the adopted LOS standards for a given facility or service, certain developments can have a significant impact on existing facilities and services. Such impacts can shorten the anticipated life span of a facility or stretch the limits of a given public service and create a need for repairs and improvements to protect the health, safety, and general welfare of the public. In order to mitigate these impacts, the City is hereby authorized to require certain development exactions in accordance with this section.

8.8.1 Development exactions

A. *Roads.* Where a proposed development is determined by the department of public works to create a safety hazard, whether it is due to ingress and egress from the development or due to accelerated deterioration of the road, the department of public works shall notify the property owner or developer in writing declaring the proposed project as a safety hazard and may require certain exactions from the applicant to mitigate these hazards, including, but not limited to, installation, expansion or improvements to the following:

1. Turn lanes.
2. Acceleration/deceleration lanes.
3. Additional right-of-way.
4. Signalization or signage.
5. Shoulder; or
6. Road reconstruction.

Public works shall establish general, written guidelines for establishing when exactions will be required and determining the nature and extent of the development exactions.

8.8.2 Proportionate Fair Share Transportation

A. The purpose of this section is to establish a method whereby the impacts of development on transportation facilities can be mitigated by the cooperative efforts of the public and private sectors, to be known as the proportionate fair share program, as required by and in a manner consistent with F.S. § 163.3180(16).

B. The City Commission finds and determines the transportation capacity is a commodity with a value to both the public and private sectors and the City proportionate fair share program:

1. Provides a method by which the impacts of development on transportation facilities can be mitigated by the cooperative efforts of the public and private sectors.
2. Allows developers to proceed under certain conditions, notwithstanding the failure of transportation concurrency, by contributing their proportionate fair share of the cost of a transportation facility.
3. Contributes to the provision of adequate public facilities for future growth and promotes a strong commitment to comprehensive facilities planning, thereby reducing the potential for moratoria or unacceptable levels of traffic congestion.
4. Maximizes the use of public funds for adequate transportation facilities to serve future growth, and may, in certain circumstances, allow the City to expedite transportation improvements by supplementing funds currently allocated for transportation improvements in the capital improvement element (CIE).

- 5. Is consistent with F.S. § 163.3180(16), and with the City of Crescent City Comprehensive Plan.
- C. The proportionate fair share program shall apply to all developments in the City notified of a lack of capacity to satisfy transportation concurrency on a transportation facility in the City concurrency management system (CMS), including transportation facilities maintained by the Florida Department of Transportation or another jurisdiction relied upon for concurrency determinations, pursuant to the requirements of section 45-362.
- D. The proportionate fair share program shall not apply to developments of regional impact using proportionate fair share under F.S. § 163.3180(12), or to developments exempted from concurrency by state or local law.

8.8.3 Proportionate Fair Share Option

- A. An applicant may choose to satisfy the transportation concurrency requirements of the City by making a proportionate fair share contribution, pursuant to the following requirements:
 - 1. The proposed development is consistent with the comprehensive plan and applicable land development regulations.
 - 2. The five-year schedule of capital improvements in the City capital improvement element or the long-term schedule of capital improvements for an adopted long-term CMS includes a transportation improvement, upon completion, will satisfy the requirements of the transportation CMS. The provisions of (B) below may apply if a project or projects needed to satisfy concurrency are not presently contained within the local government CIE or an adopted long-term schedule of capital improvements.
- B. The City may choose to allow an applicant to satisfy transportation concurrency through the proportionate fair share program by contributing to an improvement, upon completion, will satisfy the requirements of the transportation CMS, but is not contained in the five-year schedule of capital improvements in the CIE or a long-term schedule of capital improvements for an adopted long-term CMS, where the following apply:
 - 1. The City adopts, by resolution or ordinance, a commitment to add the improvement to the five-year schedule of capital improvements in the CIE or long-term schedule of capital improvements for an adopted long-term CMS no later than the next regularly scheduled update. To qualify for consideration under this section, the proposed improvement must be reviewed by the City and determined to be financially feasible pursuant to F.S. § 163.3180(16)(b)1, consistent with the comprehensive plan, and in compliance with the provisions of this article. Financial feasibility for this section means additional contributions, payments or funding sources are reasonably anticipated during a period not to exceed ten (10) years to fully mitigate impacts on the transportation facilities.
 - 2. If the funds allocated for the five-year schedule of capital improvements in the CIE are insufficient to fully fund construction of a transportation improvement required by the CMS, the City may still

enter into a binding proportionate fair share agreement with the applicant authorizing construction of the amount of the development on which the proportionate fair share is calculated, if the proportionate fair share amount in the 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.

- C. The improvement or improvements funded by the proportionate fair share component must be adopted into the five-year capital improvements schedule of the comprehensive plan or the long-term schedule of capital improvements for an adopted long-term concurrency management system at the next annual capital improvements element update.
- D. Any improvement project proposed to meet the developer's fair share obligation must meet design standards of the City for locally maintained roadways and those of the FDOT for the state highway system.

8.8.4 Proportionate Fair Share Agreement Procedures

- A. Upon notification of a lack of capacity to satisfy transportation concurrency, the applicant shall also be notified in writing of the opportunity to satisfy transportation concurrency through the proportionate fair share program.
- B. Prior to applying for a proportionate fair share agreement, a pre-application meeting shall be held to discuss eligibility, application submittal requirements, potential mitigation options, and related issues. If the impacted facility is on the Strategic Intermodal System (SIS), then the FDOT will be notified and invited to participate in the pre-application meeting.
- C. Eligible applicants shall apply to the City including an application fee as established by resolution and the following:
 - 1. Name, address and phone number of owner(s), developer and agent;
 - 2. Property location, including parcel identification numbers.
 - 3. Legal description and survey of property.
 - 4. Project description, including type, intensity and amount of development.
 - 5. Phasing schedule, if applicable.
 - 6. Description of requested proportionate fair share mitigation method(s); and
 - 7. Copy of concurrency application.
- D. The City Manager, or designee, shall review the application and certify the application as sufficient and complete within a reasonable timeframe. If an application is determined to be insufficient, incomplete, or inconsistent with the general requirements of the proportionate fair share program, then the applicant will be notified in writing of the reasons for such deficiencies within ten (10) business days of

submittal of the application. If such deficiencies are not remedied by the applicant within thirty (30) days of receipt of the written notification, then the application will be deemed abandoned. The City Commission may, in its discretion, grant an extension of time not to exceed sixty (60) days to cure such deficiencies, provided the applicant has shown good cause for the extension and has taken reasonable steps to affect a cure.

- E. Pursuant to F.S. § 163.3180(16)(e), proposed proportionate fair share mitigation for development impacts to facilities on the SIS requires the concurrency of the FDOT. The applicant shall submit evidence of an agreement between the applicant and the FDOT for inclusion in the proportionate fair share agreement. Facilities designated as emerging SIS shall not be subject to this part.
- F. When an application is deemed sufficient, complete, and eligible, the applicant shall be advised in writing and a proposed proportionate fair share obligation and binding agreement will be prepared by the City or the applicant with direction from the City and delivered to the appropriate parties for review, including a copy to the FDOT for any proposed proportionate fair share mitigation on a SIS facility, no later than sixty (60) days from the date at which the applicant received the notification of a sufficient application and no fewer than fourteen (14) days prior to the City Commission meeting when the agreement will be considered.
- G. The City shall notify the applicant regarding the date of the City Commission meeting when the agreement will be considered for final approval. No proportionate fair share agreement will be effective until approved by the City Commission.

8.8.5. Determining Proportionate fair share obligation

- A. Proportionate fair share contributions shall be applied as a credit against transportation impact fees to the extent 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 transportation impact fee ordinance.
- B. Transportation impact fee credits for the proportionate fair share contribution will be determined when the transportation impact fee obligation is calculated for the proposed development. Transportation impact fees owed by the applicant will be reduced per the proportionate fair share agreement as they become due per the transportation impact fee ordinance. If the applicant's proportionate fair share obligation is less than the development's anticipated transportation impact fee for the specific stage or phase of development under review, then the applicant or its successor must pay the remaining transportation impact fee amount to the City pursuant to the requirements of the transportation impact fee ordinance.
- C. The proportionate fair share obligation is intended to mitigate the transportation impacts of a proposed development at a specific location. As a result, any transportation impact fee credit based upon proportionate fair share contributions for a proposed development cannot be transferred to any other location unless provided for within the local transportation impact fee ordinance.

8.8.6. Proportionate fair share agreements

- A. Upon execution of a proportionate fair share agreement (agreement) the applicant shall receive a certificate of concurrency approval. Should the applicant fail to apply for a development permit within twelve (12) months of the execution of the agreement, then the agreement shall be considered null and void, and the applicant shall be required to reapply.
- B. Payment of the proportionate fair share contribution is due in full prior to issuance of the final development order or recording of the final plat and shall be non-refundable. If the payment is submitted more than twelve (12) months from the date of execution of the agreement, then the proportionate fair share cost shall be recalculated at the time of payment based on the best estimate of the construction cost of the required improvement at the time of payment.
- C. All developer improvements authorized under this article must be completed prior to issuance of a development permit, or as otherwise established in a binding agreement accompanied by a security instrument sufficient to ensure the completion of all required improvements. Any required improvements shall be completed at the time of the occurrence of any adverse transportation impact requiring mitigation. No building permits or certificates of occupancy will be issued on any phase or stage of a development causing the adverse transportation impact until completion of any required improvements or other approved mitigation.
- D. Dedication of necessary right-of-way for facility improvements pursuant to a proportionate fair share agreement must be completed prior to issuance of the final development order or recording of the final plat.
- E. Any requested change to a development project subsequent to a development order may be subject to additional proportionate fair share contributions to the extent the change would generate additional traffic requiring mitigation.
- F. Applicants may submit a letter to withdraw from the proportionate fair share agreement at any time prior to the execution of the agreement. The application fee and any associated advertising costs to the City will be non-refundable.

8.8.7. Appropriation of fair share revenues

- A. Proportionate fair share revenues shall be placed in the appropriate project account for funding of scheduled improvements in the CIE, or as otherwise established in the terms of the proportionate fair share agreement toward the construction of another improvement within that same corridor or sector mitigating the impacts of development.
- B. Where an impacted regional facility has been designated as a regionally significant transportation facility in an adopted regional transportation plan as provided in F.S. § 339.155, the City may coordinate with other impacted jurisdictions and agencies to apply proportionate fair share contributions and public contributions to seek funding for improving the impacted regional facility under the FDOT TRIP.

Such coordination shall be ratified through an inter-local agreement establishing a procedure for earmarking of the developer contributions for this purpose.

8.8.8. Intergovernmental coordination

- A. Pursuant to policies in the intergovernmental coordination element of the City of Crescent City Comprehensive Plan and applicable policies in the Northeast Florida regional plan, the City shall coordinate with affected jurisdictions, including FDOT, regarding mitigation to impacted facilities not under the jurisdiction of the local government receiving the application for proportionate fair share mitigation.
- B. An inter-local agreement may be established with other affected jurisdictions for this purpose.