

Copy to: GMD
Utilities
MTB
Fin.
File

Ordinance No. 06-047

1 AN ORDINANCE OF ST. LUCIE COUNTY, FLORIDA,
2 CONCERNING AMENDMENTS TO LAND DEVELOPMENT
3 REGULATIONS CHAPTER V, "ADEQUATE PUBLIC
4 FACILITIES"; PROVIDING FINDINGS; PROVIDING FOR
5 AMENDMENTS TO THE METHODS OF DETERMINATION
6 OF CONCURRENCY; AMENDING THE LEVEL OF
7 SERVICE STANDARDS FOR WATER AND SEWER
8 SYSTEMS; ELIMINATION OF THE UNCONDITIONAL
9 BLANKET EXEMPTION OF PHASED DEVELOPMENT;
10 PROVIDING THAT THE IMPACT OF SINGLE FAMILY
11 HOMES ON LOTS CREATED ON OR BEFORE JANUARY 9,
12 1990, SHALL BE DE MINIMIS IMPACTS WHICH SHALL BE
13 REPORTED IN THE DE MINIMIS IMPACT REPORTING
14 SYSTEM; DEFINING AND PROVIDING FOR REPORTING
15 DE MINIMIS IMPACTS; PROVIDING FOR
16 PROPORTIONATE FAIR-SHARE IMPACT MITIGATION OF
17 TRANSPORTATION IMPACTS; PROVIDING A PROCESS
18 FOR AMENDMENT OF PROPORTIONATE FAIR-SHARE
19 AGREEMENTS AND DEVELOPMENT AGREEMENTS;
20 PROVIDING FOR CONFLICTS AND SEVERABILITY; AND
21 PROVIDING AN EFFECTIVE DATE.
22
23

24
25 WHEREAS, the Florida Legislature adopted a Committee
26 Substitute for Senate Bill 360 amending section 163.3180, Florida
27 Statutes; and
28

29 WHEREAS, the amendments to state law require St. Lucie
30 County to create a proportionate fair-share impact mitigation
31 procedure to create a pay as you go program to remedy adverse
32 transportation facility impacts of proposed development; and
33

34 WHEREAS, the Florida Department of Transportation has
35 published a model ordinance to adopt proportionate fair-share
36 provisions in the County's concurrency management system; and
37

38 WHEREAS, the Board of County Commissioners wishes to
39 update and improve its concurrency management system generally;
40 and
41

42 WHEREAS, St. Lucie County is required to adopt in its

EDWIN M. FRY, Jr., CLERK OF THE CIRCUIT COURT
SAINT LUCIE COUNTY
FILE # 3047035 04/27/2007 at 11:00 AM
OR BOOK 2806 PAGE 2634 - 2680 Doc Type: ORDN
RECORDING: \$401.00

1 concurrency management system methodologies that will be applied
2 to calculate proportionate fair-share mitigation by December 1, 2006;
3 and
4

5 **WHEREAS**, the St. Lucie County Planning and Zoning
6 Commission, acting as the Local Planning Agency pursuant to
7 subsection 163.3194(2), Florida Statutes, held a properly noticed
8 public hearing regarding Ordinance 2006-47 on September 21, 2006,
9 and transmitted its recommendations to the Board of County
10 Commissioners; and
11

12 **WHEREAS**, the Board of County Commissioners held a
13 properly noticed public hearing on December 5, 2006 and voted to
14 adopt Ordinance 2006-47, and to authorize the staff to transmit the
15 ordinance to the State Land Planning Agency for review;
16

17 **NOW, THEREFORE, BE IT ORDAINED BY THE**
18 **BOARD OF COUNTY COMMISSIONERS OF ST. LUCIE**
19 **COUNTY, FLORIDA, AS FOLLOWS:**
20

21 **Section One.** The St. Lucie County Land Development Code,
22 Ordinance 90-36, Revised through September 20, 2005, Chapter V,
23 "Adequate Public Facilities" is hereby amended by deleting the
24 words shown in strike-through type, and adding the words shown in
25 underlined type, as follows:
26

27 **CHAPTER V**
28 **ADEQUATE PUBLIC FACILITIES**

29 **TABLE OF CONTENTS**

<u>Section</u>	<u>Title</u>	<u>Page</u>
<u>5.00.00</u>	<u>Adequate Public Facilities</u>	<u>4</u>
<u>5.00.01</u>	<u>Purpose</u>	<u>4</u>
<u>5.00.02</u>	<u>Findings</u>	<u>4</u>
<u>5.00.03</u>	<u>Authority and Applicability</u>	<u>6</u>
<u>5.01.00</u>	<u>Definitions</u>	<u>6</u>
<u>5.02.00</u>	<u>Procedure</u>	<u>11</u>
<u>5.03.00</u>	<u>Development Not Subject to the Requirements of Chapter V,</u> <u>Adequate Public Facilities</u>	<u>12</u>

1	5.03.01	Exemptions from this chapter	12
2	5.03.02	Exempt Permits	14
3	5.03.03	Certificate of Capacity Exemption	15
4	5.03.04	Concurrency Test for Exempt Development	16
5			
6	5.04.00	Change of Use	17
7			
8	5.05.00	Demolition or Termination of Existing Land Use	18
9			
10	5.06.00	Level of Service Standards	18
11	5.06.01	Establishment of Level of Service Standards	18
12	5.06.02	Certificate of Capacity Based on Developer Funding of	
13		All Costs and Expenses for All Required Improvements	23
14	5.06.03	Measurement of Road Capacity	24
15	5.06.04	Required Determination for Roads	24
16			
17	5.07.00	Proportionate Fair Share Transportation Impact	
18		Mitigation	26
19			
20	5.08.00	Review of Development Orders	37
21	5.08.01	Application for Certificate of Capacity	37
22	5.08.02	Requirements for Certificate of Capacity	37
23	5.08.03	Concurrency Test	38
24	5.08.04	Certificate of Capacity	39
25	5.08.05	Effect of a Development Agreement in Conjunction With	
26		A Certificate of Capacity	41
27	5.09.00	Variances	43
28	5.09.01	Certificate of Capacity Variance	43
29			
30	5.10.00	Capacity Information Letters	44
31	5.10.01	Purpose	44
32	5.10.02	Application	44
33			
34	5.11.00	Fees	45
35	5.11.01	Concurrency Test Fee	45
36	5.11.02	Processing Fee	45
37	5.11.03	Certificate of Capacity Reservation Fee	45
38			
39	5.12.00	Conflict with Other Regulations	46
40			
41			
42			

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47

CHAPTER V
ADEQUATE PUBLIC FACILITIES

5.00.00 ADEQUATE PUBLIC FACILITIES

5.00.01 GENERALLY PURPOSE

This Chapter is needed:

- A. To implement the goals, objectives, and policies including the level of service standards in the St. Lucie County Comprehensive Plan that necessary public facilities and services be available concurrent with the impacts of development.
- B. To ensure that Development Orders and permits will be issued in a manner which will not result in a reduction of the level of service below the adopted level of service standards in the St. Lucie County Comprehensive Plan, as it may be amended from time to time.
- C. To adhere to and implement the Schedule of Capital Improvements in the St. Lucie County Comprehensive Plan and other capital improvements as necessary to maintain the level of service standards in this Code.
- D. To adopt reasonable land development regulations in furtherance of the public benefit while at the same time ensuring that property owners have a reasonable, beneficial, and economic use of property.

5.00.02 FINDINGS

- A. The standards and requirements of this Chapter for transportation facilities are necessary for the safety of the public ~~benefit of travel~~ because the number of accidents resulting in property damage and injury increases as the congestion increases on roads, and that the fire, rescue, and law enforcement response times and disaster evacuation times increase as congestion increases on roads.
- B. The standards and requirements of this Chapter for potable water, sanitary sewer, solid waste, and stormwater management facilities are necessary for the health, safety and welfare of the citizens of St. Lucie County and the protection of the environment and natural resources of St. Lucie County.
- C. The standards and requirements of this Chapter for park facilities are necessary for the health, safety, welfare and enjoyment of the citizens of St. Lucie County.
- D. Sec. 163.3161, et. seq., Fla. Stat., establishes the Florida Local Government Comprehensive Planning and Land Development Regulation Act (hereinafter "the Act").

- 1
2 E. The Act mandates that each local government in the State of Florida adopt a
3 Comprehensive Plan to guide and control future development, and authorizes and
4 requires the adoption of land development regulations.
5
6 F. The Board of County Commissioners of St. Lucie County, pursuant to the Act, Chapter
7 125, Fla. Stat., and Ch. 75-390, Laws of Fla., as amended, adopted St. Lucie County
8 Ordinance No. 90-1, adopting a revised Comprehensive Plan for St. Lucie County, which
9 plan was amended on March 5, 2002 by Ordinance 02-008 and January 6, 2004 pursuant
10 to a compliance agreement.
11
12 G. Sec. 163.3177(10)(h), Fla. Stat., provides that public facilities and services needed to
13 support development must be available concurrent with the impacts of such development.
14
15 H. Sec. 163.3202(2)(g), Fla. Stat., also provides that not later than one (1) year after its due
16 date established by the State land planning agency's rule for submission of local
17 Comprehensive Plans, a local government shall not issue a Development Order or permit
18 which results in a reduction in the level of service for the affected public facilities below
19 the level of service provided in the Comprehensive Plan.
20
21 I. Rule 9J-5.0055(2), Florida Administrative Code (F.A.C.) requires that a concurrency
22 management system must be implemented after adoption of a Comprehensive Plan to
23 ensure that public facilities and services needed to support development are available
24 concurrent with the impacts of such development.
25
26 J. Sec. 163.3180, Florida Statutes, as amended by Chapter 2005-290, Laws of Florida, with
27 new requirements for concurrency management requiring local governments to, among
28 other things, adopt a transportation concurrency management system by ordinance and
29 create a proportionate fair-share impact mitigation provision.
30
31 K. The adopted St. Lucie County Comprehensive plan requires owner/developers to enter
32 into a development agreement with the county that "specifies that new development will
33 provide for the upgraded facility" (Capital Improvements Element Policy 11.1.1.12, B);
34 and provides further that "The County will allocate the costs of new public facilities on
35 the basis of the benefits received by existing and future residents so that current residents
36 will not subsidize new development" (Capital Improvements Element Policy 11.1.2.3);
37 provides further that "Future development shall pay for 100% of the capital
38 improvements needed to address the impact of such development" (Capital
39 Improvements Element 11.1.2.4); and provides that "Future development shall not pay
40 impact fees for the portion of any capital improvements that reduces or eliminates
41 existing deficiencies" (Capital Improvements Element Policy 11.1.2.4). The adopted St.
42 Lucie County Comprehensive Plan is not inconsistent with current state law requirements
43 regarding concurrency management, and does not prohibit proportionate fair share
44 contributions as required by law. Proportionate fair-share is a method of "providing for"
45 upgraded facilities or payment of 100% of the capital improvements needed to address
46 the impacts attributed to a development as determined through a proportionate share
47 calculation in accordance with this Chapter 5, as it may be amended from time to time.
48

1 The adopted comprehensive plan shall be interpreted and applied in a manner consistent
2 with state law.

3
4 L. This ordinance is consistent with the adopted comprehensive plan.

5
6
7 **5.00.03 AUTHORITY AND APPLICABILITY**

8
9 A. The Board of County Commissioners of St. Lucie County, Florida, has the authority to
10 adopt these regulations pursuant to Article VIII, Section 1(f), Fla. Const., Section 125.01
11 et. seq., Fla. Stat., Section 163.3161 et. seq., Fla. Stat., and Rule 9J-5, F.A.C.

12
13 B. These regulations shall apply to all development in the total unincorporated area of St.
14 Lucie County, Florida.

15
16 **5.01.00 ~~REVIEW OF DEVELOPMENT ORDERS~~ DEFINITIONS**

17
18 Adverse trip: A vehicle trip on a segment of a failing transportation facility.

19
20 Annual capacity availability report: A report prepared on or by October first of each year
21 specifying, among other things:

- 22
23 (1) Capacity used for the preceding year;
24 (2) Projected capacity demand for the next succeeding year;
25 (3) Available capacity for each public facility and service;
26 (4) Projected capacity for each public facility and service, including new capacity created
27 through the capital improvements program; and
28 (5) Recommendations.

29
30 Appeal: A request for a review of an administrative interpretation of any provision of Chapter
31 V, Adequate Public Facilities, or a review of a decision made by any administrative official or
32 board or commission with regard to adequate public facilities or concurrency management.

33
34 Applicant: A person who files an application under this article.

35
36 Application: Any document submitted by an applicant under Chapter V, Adequate Public
37 Facilities, including, as the case may be, any of the following:

- 38
39 (1) An application by the applicant to the Department of Growth Management seeking issuance
40 for his project of a capacity encumbrance letter;
41 (2) The application or procedure by which the applicant under the provisions of the Land
42 Development Code seeks to appeal the denial by the Director of Growth Management or his/her
43 designee of an application for a capacity encumbrance letter;
44 (3) An application to be placed on a waiting list for capacity as it becomes available;
45 (4) An application for a proportionate fair-share agreement; or
46 (5) An application or proposal by the applicant for approval of a mitigation plan for his project
47 so that, if approved, a capacity encumbrance letter can be issued.
48

1 Area of impacts: The geographical transportation network of roadway segments and
2 intersections on which the proposed project is tested.

3
4 Building: Any structure that encloses or covers a space used for sheltering any occupancy.

5
6 Building permit: For purposes of this article, a permit which authorizes:

7
8 (1) The construction of a new building; or

9 (2) The expansion of a floor area or the increase in the number of dwelling units contained in an
10 existing building; or

11 (3) Change in use, shall qualify as a building permit.

12
13 Capacity: Refers to the availability of a public service or facility to accommodate users at a
14 maximum level of demand, expressed in an appropriate unit of measure, such as gallons per day
15 or average daily trip ends.

16
17 Capacity, available: Capacity which can be encumbered or reserved to future users for a
18 specific public facility or service.

19
20 Capacity, permitted: Capacity which has been removed from the reserved or encumbered
21 capacity bank and has been committed to a particular property through issuance of a building
22 permit.

23
24 Capacity, encumbered: Capacity which has been removed from the available capacity bank
25 through the issuance of a capacity encumbrance letter.

26
27 Capacity encumbrance letter: A letter issued by the county based upon a determination by the
28 Director of Growth Management or his/her designee that adequate capacity for each public
29 service and facility is available and has been encumbered for one hundred eighty (180) days to
30 serve the densities and intensities of development designated on such capacity encumbrance
31 letter.

32
33 Capacity information letter: An informational and nonbinding letter for a specific development
34 or property which indicates available capacity for each public facility based upon adopted LOS
35 standards at the time the letter is issued but which does not (i) guarantee capacity in the future,
36 nor (ii) encumber, commit or reserve capacity for any period of time.

37
38 Capacity reservation fee: The fee as established by resolution of the board of county
39 commissioners that is required to be paid to the county as a condition of capacity reservation in
40 the amount equivalent to the then applicable transportation impact fees calculated on the basis of
41 the capacity reserved for the term of the certificate of capacity:

42
43 (1) Less any outstanding impact fee credits applicable to the property; and

44 (2) Plus any additional impact mitigation fees in lieu of construction of improvements required
45 for the project for which the certificate of capacity is issued.

46
47 Capacity, reserved: Capacity which has been removed from the available or encumbered
48 capacity bank and allocated to a particular property through issuance of a certificate of capacity

1 reserving capacity for a period of time specified in such certificate of capacity, which period of
2 time shall not exceed the limits established in this chapter.

3
4 Capacity, used: Capacity which is being used by existing residents and development.

5
6 Capacity, vested: Capacity which has been withdrawn from the available capacity bank through
7 issuance of a trip-based vesting determination or phasing agreement.

8
9 Capacity waiting list: A chronological listing of applicants that have been denied a capacity
10 encumbrance letter and have applied to be put on the capacity waiting list. Applicants on the
11 capacity waiting list shall be offered capacity as it becomes available on a "first come-first
12 served" basis.

13
14 Certificate of Capacity: A certificate issued by the county pursuant to the terms and
15 conditions of this article, which constitutes proof that adequate capacity for each required public
16 facility or service exists and has been reserved to serve the densities and intensities of
17 development specified on such certificate and within the time period designated on such
18 certificate. Time periods permitted for certificate of capacities are specified in this chapter.

19
20 CIE: Capital improvements element of the adopted Comprehensive plan required pursuant to
21 F.S. § 163.3177(3)(a), as amended by Chapter 2005-290, Laws of Florida.

22
23 CIP: Capital improvements program, a five-year schedule of capital improvements adopted as
24 an amendment to the Comprehensive Plan annually in conjunction with the county budget. The
25 Capital Improvements Program is part of the adopted Capital Improvements Element.

26
27 Change of use: For purposes of this article, any proposed change of use, redevelopment or
28 modification of the character, type or intensity of use of an existing building or site.

29
30 Concurrency: Growth management concept intended to ensure that the necessary public
31 facilities and services are available and operating at or below the adopted levels of service
32 concurrent with the impacts of development.

33
34 Collateral assignee: That person or entity to which a capacity encumbrance letter or certificate
35 of capacity is collaterally assigned in accordance with the terms and conditions of this article as
36 security for a loan encumbering the real property described in, and which is the subject of, either
37 a capacity encumbrance letter or a certificate of capacity.

38
39 Concurrency database: Inventory of roadways, intersections, and other public facilities and
40 services subject to concurrency including, but not limited to the most recent available and
41 historical traffic counts and tracking encumbered, reserved, and (where data is available) vested
42 trips; water and sewer facilities capacity and most recent usage data; park and recreation
43 facilities; stormwater facilities capacity and usage; solid waste facility capacity and usage.

44
45 Concurrency evaluation: Evaluation by the Growth Management Director of his/her designee
46 based on adopted LOS standards to ensure that public facilities and services needed to support
47 development are available and operating at or below the adopted levels of service concurrent
48 with the impacts of such development as defined in this article.

1 Concurrency management system (CMS): The adopted procedures and/or process used to assure
2 that public facilities that support development are available "concurrent" with the impact of such
3 development consistent with Chapter 163, Florida Statutes.
4

5 De Minimis Impact: A de minimis impact is an impact that would not affect more than 1 percent
6 of the maximum volume at the adopted level of service of the affected transportation facility as
7 determined by the county. No impact will be de minimis if the sum of existing roadway volumes
8 and the projected volumes from approved projects on a transportation facility would exceed 110
9 percent of the maximum volume at the adopted level of service of the affected transportation
10 facility; provided however, that an impact of a single family home on an existing lot will
11 constitute a de minimis impact on all roadways regardless of the level of the deficiency of the
12 roadway. Further, no impact will be de minimis if it would exceed the adopted level-of-service
13 standard of any affected designated hurricane evacuation routes. State law requires that the
14 county shall maintain sufficient records to ensure that the 110-percent criterion is not exceeded.
15 State law requires that the county shall submit annually, with its updated capital improvements
16 element, a summary of the de minimis records. (Reference: Section 163.3180(6), F.S.) (Note:
17 The addition of this definition was suggested by the Planning and Zoning Commission.
18 However, the definition was added after the meeting at the Commission's suggestion, and was
19 not reviewed by them. The definition is quoted from Section 163.3180(6), F.S., but the word
20 "county" is substituted for the words "local government".)

21 -
22 Developer's or Development agreement: An agreement entered into between the county and
23 another person or entity associated with the development of land including, but not limited to,
24 agreements associated with development orders issued pursuant to F.S. § 380.06.
25

26 Development completion: The time at which all components of a development are completed
27 and a certificate of occupancy or a certificate of completion has been issued for all approved
28 buildings and structures; or the County Engineer has certified the improvements, and the Board
29 of County Commissioners and/or property owners association (as applicable) has accepted the
30 improvements and authorized the recording of the Final Plat for a subdivision.
31

32 Development Agreement: An agreement in a standard form provided by the Director of Growth
33 Management and approved for legal sufficiency by the County Attorney subject to review by the
34 Florida Department of Community Affairs pursuant to Section 1633221, Florida Statutes, the
35 Florida Local Government Development Agreement Act, as it may be amended from time to
36 time.
37

38 DRC: Development Review Committee created pursuant to Section 12.09.00 of the St. Lucie
39 County Land Development Code, as it may be amended from time to time.
40

41 Encumbrance period: The period of one hundred twenty (120) days following the date of
42 issuance of a capacity encumbrance letter for which period capacity is encumbered pursuant to
43 such capacity encumbrance letter.
44

45 FDOT: The Florida Department of Transportation.
46

47 FSUTMS: The Florida Standard Urban Transportation Model Structure is a formal set of
48 modeling steps, procedures, software, file formats, and guidelines established by the Florida
49 Department of Transportation (FDOT) for use in travel demand forecasting throughout the state.

1
2 Land Development Code: Those portions of the County Code that the county is obligated to
3 adopt and enforce pursuant to Chapter 163, Florida Statutes, which regulate the development
4 and/or use of real property and that are consistent with and implement the adopted
5 Comprehensive Plan pursuant to the requirements of F.S. § 163.3202.
6

7 Large Development Projects: Development projects that equal or exceed 70% of the
8 Development of Regional Impact thresholds established by the Treasure Coast Regional
9 Planning Council, and in effect on September 11, 2006.
10

11 LOS: Level of service standard, which is the measurement indicating the degree of service
12 provided by, or proposed for, a designated public facility based on the operational characteristics
13 of such facility. Level of service shall indicate the capacity per unit of demand for each public
14 facility or service for which a Level of Service Standard is adopted.
15

16 Mitigation plan: A plan or proposal by the applicant for a project by which the applicant
17 proposes to improve or undertake improvements to the public facilities and services to mitigate
18 the impacts of the applicant's project.
19

20 PM peak hour peak directional trips: The vehicle trips in the direction of higher travel demand
21 on a road during the evening peak commuting period.
22

23 Project: The particular lot, tract of land, project or other development unit for which the
24 applicant files an application under this article.
25

26 Project trip: A new vehicle trip that begins or ends within the project and that uses one (1) or
27 more off-site roads, or on-site public roads.
28

29 Proportionate Fair Share Agreement: An agreement in a standard form provided by the Director
30 of Growth Management and approved for legal sufficiency by the County Attorney setting forth
31 the terms, dollar amounts, due dates, and such other information as may be required regarding
32 proportionate fair share contributions acceptable to the County and agreed to by applicants as
33 conditions of approval of land development applications. Proportionate Fair Share Agreements
34 will only be used in situations where developer contributions are being made as mitigation for
35 capital improvements that are required to address the impacts of the development, and that are
36 already included in the adopted Comprehensive Plan 5-Year Capital Improvements Program.
37 Proportionate Fair Share Agreements shall not be used to provide funding for any capital
38 improvement that is not already scheduled in the adopted Comprehensive Plan 5-Year Capital
39 Improvements Program, such improvements may be subject to proportionate fair share
40 contributions through the completion of Development Agreements pursuant to Section 163.3321,
41 F. S. A proportionate fair share clause may be inserted into a development agreement when the
42 proportionate fair share is to be provided for improvements that are not already in the adopted
43 Comprehensive Plan 5-Year Capital Improvements Program.
44

45 Public facilities and services: Those public facilities and services for which level of service
46 (LOS) standards have been established in the adopted Comprehensive Plan, and are recognized
47 in this article, and which include the following:
48

49 (1) Roads:

- 1 (2) Wastewater;
- 2 (3) Stormwater;
- 3 (4) Solid waste;
- 4 (5) Potable water; and
- 5 (6) Parks and recreation; and
- 6 (7) Mass transit.

7

8 Reservation period: The length of time for which capacity is reserved pursuant to a capacity
9 reservation certificate.

10

11 Roads: Major thoroughfare network.

12

13 Roadway segment: A portion of a road defined by two (2) end points, usually the length of road
14 from one (1) signalized intersection to the next signalized intersection.

15

16 Subdivision: Any subdivision of land as defined in chapter 30, article III, of the County Code.

17

18 Transportation Concurrency: Transportation facilities are deemed to be concurrent when
19 facilities needed to serve new development are in place or under actual construction within three
20 (3) years after the local government approves a building permit or its functional equivalent that
21 results in traffic generation.

22

23 Trip end: One (1) end of a vehicle trip.

24

25 VMT: Vehicle-mile(s) of travel generated by the project.

26

27 Vehicle trip: A vehicle movement in one (1) direction from an origin to a destination.

28

29 Vested rights: The right to develop, or continue to develop, a project notwithstanding the
30 project's inconsistency with the county concurrency management system and/or county
31 comprehensive plan, provided a vested rights certificate has been obtained pursuant to Section
32 11.09.00 of the St. Lucie County Land Development Code and/or a Certificate of Capacity
33 Exemption has been issued pursuant to Section 5.* of this chapter.

34

35 **5.02.00. EXEMPTIONS PROCEDURE**

36

37 The Director of Growth management or his/her designee shall be responsible for carrying out the
38 requirements of Chapter V, Adequate Public Facilities, and shall make determinations regarding
39 concurrency and shall issue all documentation regarding concurrency according to the
40 procedures set forth in Chapter V.

41

42 Concurrency determinations shall be made with reference to this Chapter V, and the following
43 professional publications and standards which are incorporated herein by reference:

- 44
- 45 1. FDOT Manual of Uniform Traffic Studies, latest edition.
 - 46 2. FDOT Quality/Level of Service Handbook, latest edition.
 - 47 3. FDOT Project Traffic Forecasting Handbook, latest edition.
 - 48 4. FHWA Urban Boundary and Federal Functional Classification Handbook, latest edition.
 - 49 5. FDOT Site Impact Analysis Handbook, latest edition.

6. Institute of Transportation Engineers, Trip Generation, latest edition.
7. Institute of Transportation Engineers, Transportation and Land Development, 2nd edition.
8. FDOT Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways, latest edition.
9. Federal Highway Administration Manual on Uniform Traffic Control Devices.
10. FDOT Rule 14-94, Minimum Statewide Level of Service Standards.

In the event of a conflict between standards in the above professional references with one another or with this code, the more restrictive standard shall apply, unless otherwise determined by a Florida Licensed Professional Engineer with expertise in the field of Transportation Engineering who is on the County staff or who is retained by the County as a consultant.

5.03.00 LEVEL OF SERVICE STANDARDS DEVELOPMENT NOT SUBJECT TO THE REQUIRMENTS OF CHAPTER V, ADEQUATE PUBLIC FACILITIES.

5.02.02 5.03.01 EXEMPTIONS The following shall be exempt from the provisions of this Chapter:

A. A Final Development Order issued on or before August 1, 1990, if:

1. The construction authorized by the Final Development Order has lawfully commenced before the Development Order expires according to its terms; and

2. The construction continues lawfully, without interruption and in good faith until it is complete. If the Final Development Order expires, any further development shall be in conformance with the requirements of this Chapter and all laws in effect at that time.

3. The commencement of development of any phase of a phased development within three years of the date of issuance of the Certificate of Capacity for that phase. The commencement of the development of a phase of any development more than three years after the date of issuance of the Certificate of Capacity approving the phase shall require an application for a new Certificate of Capacity and a new Concurrency Test. Mitigation of all concurrency deficiencies associated with the commencement of the phase which is the subject of the new Certificate of Capacity application shall be required as herein provided.

4. There is proof that:

a. Extensive obligations or expenses (other than land purchase costs and payment of taxes) including, but not limited to, legal and professional expenses related directly to the development have been incurred or there has otherwise been a substantial change in position. The development of all or part of the infrastructure of the project or phase, or the clearing of land, creation of a building pad, and full or substantial installation of underground improvements or building foundations shall be prima facie evidence that extensive obligations and expenses have occurred ; and

b. Such obligations, expenses and change in position were lawfully permitted and undertaken by the property owner in good faith reliance on the actions taken by the county; and

c. It would not be equitable to deny the property owner the opportunity to complete the project

1 based on the project's effects on the levels of service as adopted by the comprehensive plan and
2 implemented through the county concurrency management system.
3

4 B. A Development Order for a Development of Regional Impact adopted on or before
5 August 1, 1990, unless the Development Order:

6
7 1. expressly states otherwise;

8
9 2. expires according to its terms;

10
11 3. has not expired according to its terms and construction authorized by the Development
12 Order has not commenced within five (5) years of the adoption date of the Development Order;

13
14 4. fails to address the provision of any public facility, in which event the provisions of the
15 Comprehensive Plan and this Code, as amended shall apply only to that issue that was not
16 addressed, but shall not apply to other issues specifically addressed in the Development Order;

17
18 5. is amended to create a substantial deviation as defined by Section 380.06, Florida
19 Statutes; or

20
21 6. is invalidated in whole or in part.

22
23 ~~5.02.03.A2.~~ C. Development that is vested pursuant to Section 11.09.00, except that adequate
24 public facilities concurrency management for vested phased development shall either be in effect
25 or expired pursuant to subsection 5.03.01, A, 3 herein.
26

27 D. Construction of public facilities that are identified in the Capital Improvement Element of
28 the St. Lucie County Comprehensive Plan and are required in order to achieve level of service
29 standards for those facilities identified in Section 5.03.00; and public schools are exempt until
30 such time as a countywide school concurrency management system is adopted and in effect as
31 required by law.
32

33 Construction of public facilities that are identified in the Capital Improvement Element of the St.
34 Lucie County Comprehensive Plan other than those public facilities that are exempt pursuant to
35 subsection D above and which need to be constructed because of an emergency as determined by
36 the Board of County Commissioners.
37

38 E. An alteration or expansion of development that does not create additional impact on
39 public facilities.
40

41 F. The construction of accessory buildings and structures that do not create additional
42 impact on public facilities.
43

44 G. The replacement of an existing dwelling unit when no additional dwelling units are
45 created.
46

47 ~~5.02.03.A1.~~ H. Building permit applications for a single family residence on a Lot of Record
48 recorded on or before January 9, 1990.
49

1 5.02.02.J I. Expansions that were disclosed by the applicant and subject to a concurrency test
2 as part of the original application (i.e., ~~phased development~~), except that adequate public
3 facilities concurrency management for phased development shall be determined in accordance
4 with subsection 5.03.01 herein.

5
6 J. *Unexpired Building permit issued prior to August 1, 1990.* Development pursuant to a
7 building permit issued prior to August 1, 1990, is vested pursuant to the provisions of Section
8 11.09.00 of the St. Lucie County Land Development Code as it may be amended from time to
9 time. No such building permit shall be extended except in conformance with the applicable
10 provisions of the County Code. If the Director of Growth Management or his/her designee, or the
11 St. Lucie County Building Official, determines such a building permit has lapsed or expired
12 pursuant to the appropriate provision of the County Code or the Florida Building Code, then no
13 subsequent building permit shall be issued except in accordance with Chapter V, Adequate
14 Public Facilities.

15
16 5.03.02. ~~MEASUREMENT OF ROAD CAPACITY EXEMPT PERMITS~~

17
18 A. The following types of permits are hereby determined to be exempt from the
19 requirements of Chapter V, Adequate Public Facilities, because they do not create additional
20 impacts on public facilities or services:

21
22 Boat dock permit for a single family home, townhouse, or duplex

23 Electrical permit

24 Fence permit

25 Fire service permit

26 Floodplain permit

27 Mechanical permits (air conditioning, heating, ventilation)

28 Moving of structures (only applies to the permit issued for designating the route of the move)

29 Plumbing permit

30 Right-of-way utilization permit for projects that have received a certificate of capacity, or are
31 exempt

32 Roofing or sheet metal permit

33 Shoreline alteration permit

34 Sign permit

35 Tree removal permit

36 Underground utilities permit

37 Wetland alteration permit

38
39 B. Additionally, the following shall be exempt from the requirements of Chapter V, Adequate
40 Public Facilities if, on a case-by-case basis, the Director of Growth Management or his/her
41 designee determines that the proposed development or activity will not create additional impacts
42 on public facilities or services, based upon a review of substantial and competent evidence:

43
44 1. Variances to dimensional standards that do not result in an increased density or
45 intensity of land use.

46
47 2. Special exceptions which will be evaluated for adequate public facilities and services
48 requirements at the time of subdivision or site plan application review.

1 3. Residential interior alterations that do not create a new dwelling unit and that are not
2 easily convertible into a new additional dwelling unit.

3
4 4. Nonresidential interior alterations not connected with a change in the type of land use.

5
6 5. Additions or expansions to a dwelling unit on residential property provided such
7 additions or expansions do not increase the number of dwelling units in the particular
8 building or buildings on such property, and are not easily convertible into one or more
9 additional dwelling units.

10
11 6. Such other permit, development or activity, which the Growth Management Director
12 or his/her designee determines, on a case-by-case basis, will not create additional impacts
13 on public facilities or services.

14
15 5.03.03 REQUIRED DETERMINATION FOR ROADS CERTIFICATE OF
16 CAPACITY EXEMPTION

17
18 A. Purpose.

19
20 The purpose of this subsection is to provide for a formal and final agency decision for
21 persons who are in doubt as to the exempt status of a proposed development, or who
22 simply desire documentation of exempt statute, for persons who believe the
23 transportation facility impacts of proposed development are *de minimis*, and for persons
24 who have been informed that a Certificate of Capacity is required and who believe their
25 proposed development is exempt.

26
27 B. AUTHORITY TO GRANT CERTIFICATE OF CAPACITY EXEMPTIONS.

28
29 Upon determining that the development that is the subject of an application for a Certificate of
30 Capacity Exemption meets one or more of the criteria set out above, the Growth Management
31 Director, or his/her designee, is hereby authorized to issue a Certificate of Capacity Exemption.

32
33 5.02.01 C. GENERAL APPLICATION FOR CERTIFICATE OF CAPACITY
34 EXEMPTION

35
36 Any person seeking an exemption from the terms of this Chapter shall submit to ~~the Community~~
37 ~~Development~~ Director of Growth Management substantial competent evidence to demonstrate
38 entitlement to the exemption. The appropriate, valid, unexpired Development Order or
39 application identified in an exemption provision shall, in and of itself, constitute substantial
40 competent evidence to demonstrate entitlement to the applicable exemption. Written verification
41 of such Development Order, application or other evidence shall be made or obtained by the
42 ~~Community Development~~ Director of Growth Management. ~~If the evidence meets the applicable~~
43 ~~exemption requirements and is verified, the Certificate of Capacity Exemption shall be granted~~
44 ~~by the Community Development Director.~~

45
46 D. STANDARD FOR ISSUANCE OF A CERTIFICATE OF CAPACITY EXEMPTION

47
48 If the evidence meets the applicable exemption requirements and is verified, the Certificate of
49 Capacity Exemption shall be granted by the ~~Community Development~~ Director of Growth

1 Management.

2
3 ~~5.02.03~~ 5.03.04 CONCURRENCY TEST FOR EXEMPT DEVELOPMENT

4
5 A. In order to monitor the cumulative effect on the capacity of public facilities, a
6 Concurrency Test shall be performed for the following Development Orders that shall, if
7 authorized by this chapter, receive a Certificate of Capacity Exemption regardless of the results
8 of the Concurrency Test:

9
10 Building permit applications for a single family residence on a Lot of Record recorded on or
11 before January 9, 1990. The impact of a single family home on an existing lot created on or
12 before January 9, 1990, shall be counted as a *de minimis* impact on all roadways regardless of the
13 level of deficiency of the impacted roadways. These *de minimis* impacts shall be accumulated in
14 the *de minimis* impact tracking system, and reported annually to the State Land Planning Agency
15 in the required *de minimis* impact report. (Reference: Sec. 163.3180(6), F.S., as amended by
16 Section 5, Ch. 2005-290, Laws of Florida)

17
18 2. Development that is determined to be vested pursuant to Section 11.09.00, except that the
19 exemption of phased development shall be determined in accordance with subsection 5.03.01, A,
20 3, herein.

21
22 3. Development impacts that are determined to be *de minimis* pursuant to Section
23 163.3180(6), F.S., as it may be amended from time to time. All *de minimis* impacts will be
24 monitored in a *de minimis* impact accounting system maintained by the Department of Growth
25 Management. The cumulative impacts of *de minimis* impacts permitted on all transportation
26 facilities shall be sent annually in a report to the Department of Community Affairs, which report
27 shall show all *de minimis* impacts permitted on an affected facility, existing and committed
28 traffic impacts on each affected facility, the maximum service volume at the adopted level of
29 service for each affected facility, and the cumulative traffic impacts expressed as a percentage of
30 the maximum service volume at the adopted level of service for each affected facility. When the
31 cumulative *de minimis* impacts exceed 110% of the maximum service volume at the adopted
32 level of service on an affected transportation facility, then the applicant may make application
33 for a certificate of capacity and either demonstrate that adequate capacity is available through a
34 professionally acceptable traffic engineering study approved by the county, or provide the
35 required mitigation.

36
37 B. In order to determine the impact and potential cumulative effect on the capacity of public
38 facilities, a Concurrency Test shall be performed for the following Development Orders which
39 shall receive a Certificate of Capacity Exemption if the Concurrency Test determines that:

40
41 1. An alteration or expansion of development, other than an extension of the Development
42 Order, does not create additional impact on public facilities; or,

43
44 2. The construction of accessory buildings and structures do not create additional impact on
45 public facilities; or,

46
47 3. The replacement of an existing dwelling unit where no additional dwelling unit is
48 created; or,

1 4. The building permit for the replacement of an existing non-residential use, which use was
2 approved and subject to Concurrency Management requirements after August 9, 1990, within a
3 time frame of twenty-four (24) months from the demolition of the structure(s) that does not
4 create additional impact on public facilities. Replacement of an existing non-residential use that
5 was approved on or before August 9, 1990, shall require approval of an application for a
6 Certificate of Concurrency subject to all of the requirements herein.

7
8 **5.04.00 VARIANCES CHANGE OF USE**

9
10 Any proposed change of use, which term or phrase shall include a change, redevelopment or
11 modification of the character, type or intensity of use, shall require a concurrency evaluation in
12 accordance with the requirements and procedures in Chapter V, Adequate Public Facilities.

13
14 A. *Increased impact on public facilities or services.*

15
16 1. If a proposed change of use shall have a greater impact on public facilities and/or services
17 than the previous use, a capacity encumbrance letter (and a certificate of capacity, if appropriate)
18 shall be required for the net increase only.

19
20 2. If the proposed change in use has an impact of not more than 1% of the maximum service
21 volume of an affected transportation facility and does not exceed one hundred ten (110) percent
22 of the facility's capacity at the adopted LOS, the change of use shall not be denied based on the
23 failure to meet the adopted LOS. If the change of use has a net impact that is not *de minimis*,
24 then the applicant may make application for a certificate of capacity.

25
26 B. *Decreased impact on public facilities and services.* If the proposed change of use shall have
27 an impact on public facilities and/or services which is equal to or less than the previous use, then
28 the proposed change, redevelopment or modification of use may proceed without the
29 encumbrance of additional capacity in accordance with the provisions of this article; provided,
30 however, that in connection with such proposed change, redevelopment or modification, all other
31 applicable provisions of the County Code must be met, and the unused capacity shall be returned
32 to the capacity bank for the affected public facility or facilities. There will be no refunds of any
33 mitigation fees or impact fees collected from the applicant/developer/owner or their
34 representatives, heirs, successors or assigns due to the reduction in impacts as a result of a
35 change in use associated with an approved land development project for which a final
36 development order has been issued.

37
38 C. *Definition of "previous use."* For purposes of this section, the term "previous use" shall
39 mean either:

40
41 a. *The use existing on the site when a concurrency evaluation is sought; or*

42
43 b. *If no active use exists on the site at the time when a concurrency evaluation is sought, then*
44 *the most recent use on the site within the two-year period immediately prior to the date of*
45 *application.*

46
47 The applicant shall provide evidence which establishes the existence of such use. Such evidence
48 must include, but shall not be limited to, utility records, phone bills, income tax returns, tax bills,
49 occupational licenses, and unrelated party affidavits.

1
2 **5.05.00** **DEMOLITION OR TERMINATION OF EXISTING LAND USE**
3

4 In the case of demolition of an existing structure or termination of an existing use in conjunction
5 with plans for redevelopment, the concurrency evaluation for future development shall be based
6 upon the new or proposed land use as compared to the land use existing at the time of such
7 demolition or termination. If the existing or prior land use is one that was exempt from the
8 requirements of Chapter V, Adequate Public Facilities, pursuant to the exemptions permitted in
9 Section 5.05.00 or Section , and the existing use is not located in a designated urban infill or
10 redevelopment area, the concurrency evaluation for future development or redevelopment shall
11 be based on the new or proposed land use with no credit for the existing or prior land use. Credit
12 for prior use shall not be transferable to another parcel. Credit for prior use must be utilized in
13 connection with a redevelopment of the site within two (2) years following the demolition of the
14 existing structure or termination of the existing use, whichever first occurs. Credit for prior use
15 shall be deemed extinguished in the event such credit is not utilized in connection with the
16 issuance of a building permit or a certificate of capacity and development order within two (2)
17 years following the date of issuance of the demolition permit for the subject property, or the
18 termination of the existing use, whichever first occurs.

19
20 **5.03.00** **5.06.00** **CONFLICT WITH OTHER USES** **LEVEL OF SERVICE**
21 **STANDARDS**
22

23 ~~5.03.01~~ 5.06.01 ~~LEVEL OF SERVICE STANDARDS FOR ROADS, POTABLE~~
24 ~~WATER FACILITIES, SANITARY SEWERAGE FACILITIES, SOLID~~
25 ~~WASTE FACILITIES, STORMWATER MANAGEMENT FACILITIES,~~
26 ~~PARK FACILITIES AND MASS TRANSIT FACILITIES~~
27 ~~ESTABLISHMENT OF LEVEL OF SERVICE STANDARDS~~
28

29 A. For the purpose of issuing a Certificate of Capacity, the level of service standard for
30 roads, potable water facilities, sanitary sewerage facilities, solid waste facilities, stormwater
31 management facilities, park and recreation facilities and mass transit facilities shall not be less
32 than that level set in the St. Lucie County Comprehensive Plan. The service areas Level of
33 Service Standards which will be utilized to determine the availability of capacity for each public
34 facility are as follows:
35

36 A. Roads and
37 Intersections: ~~As defined in Section 5.03.03(A)(3) of this Code;~~ For roads that are on
38 the Strategic Intermodal System (SIS) designated in accordance with
39 subsections 339.61, 339.62, 339.63 and 339.64, Florida Statutes, as they
40 may be amended from time to time the Level of Service Standard shall be
41 the standard adopted by the Florida Department of Transportation by rule
42 (authority: subsection 163.3180(10), F.S. as amended by Section 5, Ch.
43 2005-290, Laws of Florida);
44

45 For roads on the Florida Intrastate Highway System (FIHS) as defined in
46 section 338.001, Florida Statutes, as it may be amended from time to time,
47 the Level of Service Standard shall be the standard established by the
48 Florida Department of Transportation (FDOT) by rule (authority:
49 subsection 163.3180(10), F.S. as amended by Section 5, Ch. 2005-290,

1 Laws of Florida);

2
3 For roads funded in accordance with section 339.2819, Florida Statutes,
4 “Transportation Regional Incentive Program” (TRIP) created by Section
5 12, Ch. 2005-290, Laws of Florida, the Level of Service Standard shall be
6 the standard that is adopted by rule by the Florida Department of
7 Transportation (FDOT) (authority: subsection 163.3180(10), F.S. as
8 amended by Section 5, Ch. 2005-290, Laws of Florida);

9
10 For all other roads on the State Highway System, the Level of Service
11 Standard shall be the standard in the Transportation Element of the
12 adopted Comprehensive Plan of the local government jurisdiction within
13 which the road link or intersection is located. In the unincorporated area
14 of St. Lucie County, roads on the State Highway System that are not on
15 the SIS, FIHS, or TRIP, and that do not have a level of service in the
16 adopted St. Lucie County Comprehensive Plan, as it may be amended
17 from time to time, shall be evaluated for concurrency management
18 purposes to ensure that traffic does not exceed the maximum service
19 volume for the affected link or intersection at Level of Service E
20 (authority: subsection 163.3180(10), F.S. as amended by Section 5, Ch.
21 2005-290, Laws of Florida);

22
23 For state and local roads and intersections in incorporated municipalities
24 and for roads in other counties that are impacted by development approved
25 in the unincorporated area of St. Lucie County, and that are not on the SIS,
26 FIHS, or TRIP, the Level of Service will be maintained in accordance with
27 the more restrictive of the standards in the affected local government’s
28 adopted Comprehensive Plan, or adopted Concurrency Management
29 System. To the extent possible, St. Lucie County will work with the
30 MPO, the City of Fort Pierce, the City of Port St. Lucie, the City of St.
31 Lucie Village, and adjacent local governments to create memoranda of
32 understanding and/or interlocal agreements to facilitate communication,
33 coordination, and effective implementation of transportation concurrency
34 management (authority: subsection 163.3180(10), F.S. as amended by
35 Section 5, Ch. 2005-290, Laws of Florida);

36
37 For county maintained roads and intersections within unincorporated St.
38 Lucie County, the Level of Service Standard shall be the standard adopted
39 in the Transportation Element of the St. Lucie County Comprehensive
40 Plan, as it may be amended from time to time. For roads and intersections
41 having a Level of Service Standard adopted by the Metropolitan Planning
42 Organization that is different from the Level of Service Standard in the
43 adopted St. Lucie County Comprehensive Plan, the more restrictive Level
44 of Service Standard shall apply. For arterial and collector roads that have
45 no Level of Service Standard in the either Transportation Element of the
46 adopted St. Lucie County Comprehensive Plan, or the adopted
47 Metropolitan Planning Organization Long Range Transportation Plan, the
48 Level of Service Standard for concurrency management evaluations shall
49 be LOS E (authority: subsection 163.3180(10), F.S. as amended by

1 Section 5, Ch. 2005-290, Laws of Florida);
2

3 Developments that proposed privately owned/maintained arterial or
4 collector roads shall be evaluated for the functionality and safety of those
5 roads, which shall be required to operate at a Level of Service Standard no
6 lower than LOS E. The extension of public right of way, roads,
7 multipurpose trails, or other public transportation systems through a
8 development project shall not be interrupted by the insertion within the
9 public system of one or more privately owned or maintained links.

10
11 Before determining the maximum service volume permitted on a road
12 link, the link will be classified in accordance with FDOT criteria as rural,
13 transitional, or urban, except that for roads that are not on the SIS, FIHS,
14 or TRIP proposed or committed development may be considered by the
15 Growth Management Director using the proposed site plan and road cross
16 sections and the latest US Census housing vacancy rates and average
17 household size to determine whether or not an affected road link should be
18 classified rural, transitional, or urban. The capacity of intersections shall
19 be determined in accordance with the procedures published in the latest
20 edition of the Highway Capacity Manual. In the event of a dispute the
21 Growth Management Director shall make the final determination. The
22 only remedy available to an aggrieved party is to first confer with the
23 Growth Management Director, and if the disagreement persists appeal the
24 decision of the Growth Management Director as provided in Section
25 11.11.00 of the St. Lucie County Land Development Code, as it may be
26 amended from time to time (authority: subsection 163.3180(10), F.S. as
27 amended by Section 5, Ch. 2005-290, Laws of Florida).

28
29 B. Drainage:

30 To be defined by drainage basin — Capital Improvements Element, Policy
31 11.1.1.15, — St. Lucie County Comprehensive Plan. Stormwater
32 management systems shall not be designed or built so as to be inconsistent
33 with the standards in Capital Improvements Element, Policy 11.1.1.14, St.
34 Lucie County Comprehensive Plan, nor with the below standards:

35 1. No land development will be designed or constructed in a manner that
36 is not consistent with the adopted standards of the South Florida Water
37 Management District, and of the Water Control District having jurisdiction
38 over the development's discharge.

39
40 2. For residential and nonresidential subdivisions, the building pads shall
41 be elevated above the 100-year, 72-hour, zero discharge storm event; and
42 the outside edge of the traffic lanes of local streets will be set no lower
43 than the 10-year, 24-hour storm event; and stormwater retention/detention
44 facilities shall be designed with no less than a 25-year, 72-hour storm
45 event.

46
47 3. Development plans shall be evaluated to determine that the adjacent
48 properties are not flooded as a result of proposed development, and that
49 the design-storm capacity of conveyance systems through the proposed

1 development site and off-site are not exceeded.

2
3 4. Specific Facility Design Storms:

4
5 a. Bridges: 100-year-24 hour

6 b. Canals, ditches or culverts for drainage external to a proposed
7 development: 25-year, 24-hour

8 c. Cross drains, storm sewers: 10-year, 24-hour

9 d. Roadside swales for drainage internal to the development: 10-
10 year, 24-hour

11 e. Detention basins: 25-year, 72 hour

12 f. Retention basins (no positive outfall): 100-year, 24-hour

13
14 5. Prior to the approval of a final development order by St. Lucie County,
15 applicants shall be required to submit to the Director of Growth
16 Management, or his/her designee, copies of applications for appropriate
17 permits from state agencies to comply with the rules and regulations for
18 stormwater facility design, performance and discharge.

19
20 6. Prior to approval of constructible site engineering plans, projects shall
21 be required to submit to the County Engineer, or his/her designee,
22 appropriate permits from state agencies to comply with the rules and
23 regulations for stormwater facility design, performance and discharge.

24
25 C. Potable Water:

26 ~~To be defined by potable water service provider or through the issued~~
27 ~~individual well permit—Capital Improvements Element Policy 11.1.1.16,~~
28 ~~St. Lucie County Comprehensive Plan. Water well and treatment capacity~~
29 ~~availability are to be defined by potable water service provider or through~~
30 ~~the issued individual well permit, and shall not be inconsistent with~~
31 ~~Capital Improvements Element, Policy 11.1.1.15, of the adopted St. Lucie~~
32 ~~County Comprehensive Plan, as it may be amended from time to time.~~

33 In the unincorporated area of St. Lucie County, the standard for level of
34 service for Category A Public Facilities, County Potable Water Systems,
35 shall not be less than 110 gallons per capita per day, and shall be
36 consistent with the higher of the actual peak period demand reported by
37 the South Florida Water Management District or by the water supplier
38 based on the latest and best available data, information, and analysis at the
39 time the application for approval of a land development project is received
40 by the county. Required fire flow shall be added for the purpose of
41 designing water distribution and pumping systems within the
42 unincorporated area. Fire flow requirements shall be established by the St.
43 Lucie County Fire District, and water systems shall be required to
44 demonstrate adequate fire flow by providing such flow tests and other
45 engineering documentation as the Fire District may prescribe. No
46 Development Order or Development Permit shall be issued for any
47 application that is subject to review pursuant to the requirements of this
48 Chapter V, unless the St. Lucie County Fire District approves the
49 application for the provision of adequate fire flow, or for an alternative

1 means acceptable to the Fire District for providing fire protection.

2
3 The provider of water service shall certify by letter that the necessary
4 facilities and treatment capacity are available to the site of a proposed
5 development no later than the date of issuance of a Certificate of
6 Occupancy or its functional equivalent. (Reference, Sec. 163.3180(2)(a),
7 Florida Statutes as amended by Chapter 2005-290, Laws of Florida).

8
9 D. Sanitary Sewer: To be defined by sanitary sewer service provider or through the issued
10 septic tank permit - Capital Improvements Element, Policy 11.1.1.17, St.
11 Lucie County Comprehensive Plan. Plant treatment capacity availability is
12 to be defined by sanitary sewer service provider or through the issued
13 septic tank permit - Capital Improvements Element, Policy 11.1.1.18, of
14 the adopted St. Lucie County Comprehensive Plan, as it may be amended
15 from time to time. The provider shall certify by letter that the necessary
16 facilities and treatment capacity are available to the site of a proposed
17 development no later than the date of issuance of a Certificate of
18 Occupancy or its functional equivalent. (Reference, Sec. 163.3180(2)(a),
19 Florida Statutes as amended by Chapter 2005-290, Laws of Florida).

20
21 Demand for sewage treatment for concurrency management capacity
22 calculations and system design shall not be less than 130 gallons per day
23 per capita.

24
25 E. Solid Waste: To be defined based county wide rate of consumption of landfill space -
26 Capital Improvements Element - Policy 11.2.2.18, St. Lucie County
27 Comprehensive Plan. The Levels of Service for solid waste facilities are:

28
29 1. 9.31 pounds of solid waste per capita per day available delivery and
30 storage capacity to the County Landfill;

31
32 2. Seven years of permitted landfill disposal capacity when current fill
33 rates are used to obtain the necessary disposal capacity to accommodate
34 existing, committed, and proposed development;

35
36 3. Thirty years of landfill raw land capacity when current fill rates are
37 applied to obtain the cumulative thirty-year capacity required to
38 accommodate existing, committed, and proposed development.
39 (Reference: St. Lucie County Comprehensive Plan, Capital Improvements
40 Element, Policy 11.1.1.7)

41
42 Parks Facilities: To be defined based upon county population and gross acreage
43 needs for Category "A" Recreation Facilities - Capital Improvements
44 Element, Policy 11.1.1.19, St. Lucie County Comprehensive Plan.

45
46 Mass Transit: To be defined as identified under Capital Improvements Element, Policy
47 11.1.1.14, St. Lucie County Comprehensive Plan.

48
49 Pursuant to the requirement of the adopted St. Lucie County Comprehensive Plan, Capital

1 Improvements Element Policy 11.1.1.27, the County shall continue to require new development
2 to meet level of service standards for both on and off-site improvements, including local streets,
3 water and sewer connection lines, stormwater management facilities, and open space.

4
5 **5.06.02 CERTIFICATE OF CAPACITY BASED ON DEVELOPER FUNDING OF**
6 **COSTS AND EXPENSES FOR ALL REQUIRED IMPROVEMENTS**

7
8 A Certificate of Capacity may be issued subject to the provision of public facilities by the
9 applicant at the applicant's own expense provided that:

10
11 A. The issuance of any Building permit, when no Development Order is required, or Final
12 Development Order, when a Development Order is required, is conditioned upon the funding of
13 such public facilities; and

14
15 B. Prior to the issuance of a Building permit or Final Development Order, the County and
16 the applicant enter into a legally enforceable Proportionate Fair Share Agreement and/or
17 Development Agreement, in which the owner/developer agrees to pay the entire cost of all
18 required improvements, or the owner/developer agrees to pay the proportionate share of cost
19 attributable to the proposed development as provide herein, or to construct the improvements
20 entirely at his/her own cost and expense in accordance with terms acceptable to the county,
21 which terms shall include but not be limited to: the improvements to be built, cost estimates,
22 timing of construction and expenditures, developer financial guarantees of performance and
23 maintenance, and penalties for failure to perform in accordance with the agreement. The County
24 Attorney shall review all such agreements, and shall determine that they are legally enforceable
25 before they are presented to the Board of County Commissioners for approval.

26
27 C. No Proportionate Fair-Share Agreement or Development Agreement shall be amended by
28 the applicant, or by any agency, except by application by the applicant, or by a government
29 agency desiring an amendment, to the Director of Growth Management to amend the Agreement,
30 which application shall be reviewed by the Development Review Committee created by Section
31 12.09.00 of the St. Lucie County Land Development Code, and which application shall be
32 properly noticed and heard by the Planning and Zoning Commission and the Board of County
33 Commissioners, when required through the same process established by the St. Lucie County
34 Land Development Code for amendment of the application with which the Development
35 Agreement is associated. Government agencies desiring an amendment may submit their
36 proposals under cover of a memorandum, if the agency is a county agency, or a letter of request,
37 if the agency is not a county agency, with appropriate supporting analysis, conclusions, options,
38 and recommendations.

39
40 Independent negotiations of changes in Proportionate Fair-Share Agreements or Development
41 Agreements with individual agencies outside of the process established in this subsection
42 5.06.02, C, are hereby prohibited. Such Agreements shall not be amended by other agreements
43 required, authorized, or otherwise permitted by state law and this code. Reviewing agencies are
44 required to address their concerns through the interagency review processes established by the
45 St. Lucie County Land Development Code for review by the Development Review Committee,
46 and shall not postpone their participation to a time after the development proposal is approved.
47 The Director of Growth Management shall determine whether an amendment to a Proportionate
48 Fair-Share Agreement or a Development Agreement is a Minor Amendment or a Major
49 Amendment. Changes to approved development standards not specifically classified by the St.

1 Lucie County Land Development Code as Minor Amendments; changes to any list of permitted
2 land uses, buffering, or minimum building separation; and changes to the amount of developer
3 contributions and mitigation of impacts, and any proposed change not classified by the Director
4 of Growth Management as a minor amendment, shall not be considered Minor Amendments, and
5 shall not be processed as Minor Amendments. The County Attorney shall review all proposed
6 amended Proportionate Fair-Share Agreements and all proposed amended Development
7 Agreements for legal sufficiency, and ensure that they are legally enforceable before they are
8 resented to the Board of County Commissioners for approval. Separate agreements that are not
9 titled Proportionate Fair-Share Agreements or Development Agreements shall not be inconsistent
10 with the approved Proportionate Fair-Share Agreement and Development Agreement, and shall
11 not be used to amend an approved Proportionate Fair Share Agreement or Development
12 Agreement outside of the process herein established.

13
14 **5.03.02 5.06.03 MEASUREMENT OF ROAD CAPACITY**

15
16 The Florida Department of Transportation (FDOT) Tables of Generalized Daily, Peak Hour, and
17 Peak Hour/Peak Direction Level-of-Service Maximum Volumes will be used to determine initial
18 highway, road and street capacities. The measurement of capacity may also be determined by
19 substantiation in the form of engineering studies signed by a licensed Professional Engineer.
20 Traffic analysis techniques must be professionally acceptable and justifiable as determined by
21 the Community Development Director of Growth Management.

22
23 For Large Development Projects as herein defined (70% or more of the Development of
24 Regional Impact thresholds in effect on the effective date of this ordinance), the County may
25 required monitoring and modeling, as defined in Section 380.06, Florida Statutes, and
26 appropriate phasing of development or development impacts to implement monitoring and
27 modeling. Development claiming an internal trip capture rate of 25% or more shall be required
28 to be phased in terms of development units (dwelling units, site area, and/or square feet building
29 area) or in terms of trips generated, and shall perform monitoring and modeling with successful
30 results (no LOS failures) before it moves on to the next phase of development. Development
31 claiming internal trip capture rates over 15% shall be required to justify the higher internal trip
32 capture rate with a professionally acceptable analysis sealed by a Florida Licensed Professional
33 Engineer with expertise in traffic or transportation engineering, which analysis is required to be
34 reviewed and accepted by the Growth Management Director, or his/her designee. The applicant
35 shall pay the cost of any professional engineering/planning consultant hired by the county to
36 review the required internal capture rate study. All other applications may be required to justify
37 internal trip capture rates, and to perform monitoring and modeling at the discretion of the
38 Director of Growth Management, or his/her designee.

39
40 **5.03.03 5.06.04 REQUIRED DETERMINATION FOR ROADS**

41
42 A. Prior to the issuance of a Certificate of Capacity for a proposed development, the
43 following findings shall be made:

44
45 1. That the proposed development will not create a Deficient Road Segment or intersection,
46 or place trips on a Deficient Road Segment or intersection, or,

47
48 2. That the proposed development will create a Deficient Road Segment or intersection, or
49 place trips on a Deficient Road Segment or intersection, and either:

1
2 a. The necessary road improvements to provide the capacity necessary to ensure the adopted
3 level of service will be maintained, are under construction, or will be under construction during
4 the fiscal year the application for a Certificate of Capacity is made; or,

5
6 b. The necessary road improvements to provide the capacity necessary to ensure the adopted
7 level of service will be maintained are the subject of an executed contract for the commencement
8 of construction of the facilities during the fiscal year the application for a Certificate of Capacity
9 is made; or,

10
11 c. The necessary road improvements to provide the capacity necessary to ensure the adopted
12 level of service will be maintained have been included in the first three years of the Five Year
13 Capital Improvements Program in the adopted Capital Improvements Element of the St. Lucie
14 County Comprehensive Plan, as it may be amended from time to time; or,

15
16 d. The necessary road improvements to provide the capacity necessary to maintain adopted
17 level of service have been included in the first three (3) years of FDOT's five (5) year work
18 program for state roads; or,

19
20 e. The road improvements necessary to accommodate all transportation impacts of the
21 proposed development are provided for in an enforceable Development Agreement approved by
22 the Board of County Commissioners; or,

23
24 ~~f. All transportation impacts of the proposed development can be accommodated through~~
25 ~~traffic systems management, traffic demand management, transit, or some combination of these~~
26 ~~techniques with road improvements ensured through methods a - e, and the provisions of this sub-~~
27 ~~section or secured through an enforceable Development Agreement approved by the Board of~~
28 ~~County Commissioners; or,~~

29
30 f. The road and/or other transportation system improvements necessary to accommodate all
31 transportation impacts of the proposed development, except for a Development of Regional
32 Impact, are provided for in a legally enforceable Proportionate Fair Share Agreement providing
33 additional funding from the owner/developer for road, intersection, and/or other transportation
34 system improvements that are included in years four and five of the Five-Year Capital
35 Improvements Program in the adopted St. Lucie County Comprehensive Plan, or that are to be
36 included in the next update of the Five-Year Capital Improvements Program in the adopted St.
37 Lucie County Comprehensive Plan pursuant to the terms of an adopted Proportionate Fair Share
38 Agreement.

39
40 g. All transportation impacts of the proposed development can be accommodated with road
41 improvements ensured through methods a - e, and the provisions of this sub-section or secured
42 through an enforceable Development Agreement approved by the Board of County
43 Commissioners, consistent with the provisions of state law and Chapter V of the St. Lucie
44 County Land Development Code regarding such agreements; (Reference: subsection
45 163.3180(2)(c), Florida Statutes, as amended by Section 5, Chapter 2005-290, Laws of Florida.
46 Traffic systems management, and traffic demand management are not necessarily facilities, but
47 temporary operational measures that improve efficiency, and do not increase capacity. Mass
48 transit is a separate transportation system that is not fully developed in St. Lucie County, and is
49 unlikely to be developed with the necessary facilities and headways to result in a significant shift

1 from automobile travel in the next fifteen to twenty years, absent a significant shortage of
2 gasoline, and for which the legally required Level of Service Standard has not been
3 professionally studied and established. Therefore, mitigation of traffic impacts by the provision
4 of proposed transit services or system improvements shall be evaluated on a case by case basis
5 by the county using professionally acceptable methodology to determine the actual impact of the
6 proposed transit services or improvements in increasing system capacity or;
7

8 ~~g.~~ h. The proposed development is a government facility which the Board of County
9 Commissioners finds is essential to the health or safety of persons residing in or using previously
10 approved or existing development and increases the level of service for several public facilities.
11

12 B. The impact of proposed development on roads shall be determined as follows:
13

14 (Note, Reference: Section 163.3180(6), Florida Statutes, as amended by Section 5, Chapter 2005-
15 290, Laws of Florida. **The impacts exempted by the existing code should be regulated**
16 **because they** would most likely be classified as *de minimis*, and would be subject to the impact
17 measurement, accounting, limitations, and reporting requirements of state law. It should not be
18 exempt from a determination that it does not place trips on a deficient road segment, nor exempt
19 from a determination that it does not create a deficient road segment. To the extent any
20 development exempted by this section is not *de minimis*, Section 163.3180, F.S. requires an
21 accounting of its impacts, and concurrency.)
22

23 ~~Notwithstanding subsections 5.03.02(A)(1) and (A)(2), a proposed development will be~~
24 ~~determined not to create a Deficient Road Segment, or place trips on a Deficient Road Segment~~
25 ~~if:~~
26

27 a. ~~The proposed development has its first point of contact on a Deficient Road Segment and~~
28 ~~would generate less than 30 average daily trips on such segment; or~~
29

30 b. ~~The proposed development has its first point of contact with a Regulated Roadway, other~~
31 ~~than a Deficient Road Segment, within 1/4 mile of a Deficient Road Segment and would~~
32 ~~result in an impact of less than one percent (1%) of the maximum service volume flow~~
33 ~~rate at the adopted level of service standard on each Deficient Road Segment within 1/4~~
34 ~~mile of the first point of contact; or~~

35 e. ~~The proposed development has its first point of contact with a Regulated Roadway more~~
36 ~~than 1/4 mile from any Deficient Road Segment and would result in an impact of less~~
37 ~~than five percent (5%) of the maximum service volume flow rate at the adopted level of~~
38 ~~service standard on each Deficient Road Segment; or~~
39

40 d. ~~The proposed development meets the following criteria:~~
41

42 (1) ~~It generates less than a total of 150 average daily trips; and~~
43

44 (2) ~~It is a parent tract/parcel for a Lot of Record established prior to the effective date of this~~
45 ~~Chapter; and~~
46

47 (3) ~~It makes provisions for shared access of existing curb cuts or provides for shared access~~
48 ~~to its curb cut that could reasonably be expected to be used in the future; and~~
49

1 (4) ~~The density of the proposed development other than change in use or expansion is not~~
2 ~~more than 1/4 of the density allowed by the existing land use.~~

3
4 4. The County shall determine the impact of development on Regulated Roads for all
5 proposed development which will generate 30 or more average daily trips, as determined by the
6 latest generalized trip generation rates of the Institute of Transportation Engineers, or locally
7 determined trip generation rates for the specific development proposal.

8 9 **5.07 PROPORTIONATE FAIR SHARE TRANSPORTATION IMPACT MITIGATION**

10 11 **A. APPLICABILITY OF PROPORTIONATE FAIR SHARE**

12
13 The Proportionate Fair-Share Program shall apply to all developments in St. Lucie County that
14 have been notified of a lack of capacity to satisfy transportation concurrency on a transportation
15 facility in the St. Lucie County Concurrency Management System (CMS), including
16 transportation facilities maintained by FDOT or another jurisdiction that are relied upon for
17 concurrency determinations, pursuant to the requirements of Section 5.07, B. Proportionate Fair
18 Share pursuant to this Section 5.07 of the St. Lucie County Land Development Code is only
19 available to create a “pay as you go” program to accelerate the completion of improvements
20 needed to meet transportation concurrency requirements for an affected land development
21 application when the necessary improvements are already programmed in the 5-year Capital
22 Improvements Program of the adopted St. Lucie County Comprehensive Plan, or when the
23 County agrees to obligate itself to provide the additional needed funding, accept a proportionate
24 fair share contribution, and to add the improvements to the adopted Five Year Capital
25 Improvements Program in the St. Lucie County Comprehensive Plan at the next available
26 regularly scheduled Five Year CIP update as part of a legally enforceable Development
27 Agreement, approved in accordance with the procedures established for such agreements by
28 State Law and by this Chapter V, as they may be amended from time to time, or when the county
29 agrees to make one or more improvements to the transportation system in accordance with
30 subsection 5.07, B, 2, b, without any further obligation of county funds. The Proportionate Fair-
31 Share Program does not apply to Developments of Regional Impact (DRIs) using proportionate
32 fair-share under §163.3180(12), F.S., or to developments exempted from concurrency as
33 provided in Chapter V of the St. Lucie County Land Development Code, as it may be amended
34 from time to time.

35 36 **B. GENERAL REQUIREMENTS FOR PROPORTIONATE FAIR SHARE**

37
38 1. An applicant may choose to satisfy the transportation concurrency requirements of St.
39 Lucie County by making a proportionate fair-share contribution, pursuant to the
40 following requirements:

41
42 a. The proposed development is consistent with the comprehensive plan, zoning, and
43 applicable land development regulations.

44
45 b. The five-year schedule of capital improvements in the St. Lucie County
46 Comprehensive Plan Capital Improvements Element (CIE) includes a transportation
47 improvement(s) that, upon completion, will satisfy the requirements of the St. Lucie
48 County transportation CMS. The provisions of Section 5.07, B(2) may apply if a
49 project or projects needed to satisfy concurrency are not presently contained within

1 the adopted St. Lucie County Comprehensive Plan CIE 5-year Capital Improvements
2 Program.

3
4 2. St. Lucie County may choose to allow an applicant to satisfy transportation
5 concurrency through the Proportionate Fair-Share Program by contributing to an
6 improvement that, upon completion, will satisfy the requirements of the St. Lucie
7 County transportation CMS, but is not contained in the five-year schedule of capital
8 improvements in the CIE or a long-term schedule of capital improvements for an
9 adopted long-term CMS, where the following apply:

10
11 a. The County adopts, by resolution or ordinance, a commitment to add the
12 improvement to the five-year schedule of capital improvements in the CIE no
13 later than the next regularly scheduled update. To qualify for consideration
14 under this section, the proposed improvement must be reviewed by the St.
15 Lucie County Development Review Committee, and determined to be
16 financially feasible pursuant to §163.3180(16) (b) 1, F.S., consistent with the
17 comprehensive plan, and in compliance with the provisions of Chapter V of
18 the St. Lucie County Land Development Code, as they may be amended from
19 time to time. Financial feasibility for this section means that additional
20 contributions, payments or funding sources identified by and acceptable to the
21 county are reasonably anticipated during a period not to exceed 10 years to
22 fully mitigate impacts on the transportation facilities.

23
24 b. If the funds allocated for the five-year schedule of capital improvements in the
25 St. Lucie County adopted Comprehensive Plan CIE, CIP, are insufficient to
26 fully fund construction of a transportation improvement required by the CMS,
27 the County may still enter into a binding proportionate fair-share agreement
28 with the applicant authorizing construction of that amount of development on
29 which the proportionate fair-share is calculated if the proportionate fair-share
30 amount in such agreement is sufficient to pay for one or more improvements
31 which will, in the opinion of the governmental entity or entities maintaining the
32 transportation facilities, significantly benefit the impacted transportation
33 system.

34
35 The improvement or improvements funded by the proportionate fair-share
36 component must be adopted into the five-year capital improvements schedule
37 of the comprehensive plan at the next annual capital improvements element
38 update.

39
40 3. Any improvement project proposed to meet the developer's fair-share obligation
41 must meet design standards of the County for County maintained roadways and
42 those of the FDOT for the state highway system. When improvements are required
43 on an impacted City transportation facility, the design standards of the affected City
44 shall be used for improvements on City maintained roads.

45 4. Intergovernmental Coordination: Pursuant to policies in the Intergovernmental
46 Coordination Element of the St. Lucie County adopted comprehensive plan and
47 applicable policies in the adopted plan of the Treasure Coast Regional Planning

1 Council, as they may be amended from time to time, St. Lucie County shall coordinate
2 with affected jurisdictions, including FDOT, regarding mitigation to impacted
3 facilities not under the jurisdiction of the local government receiving the application
4 for proportionate fair-share mitigation. An interlocal agreement, or a Memorandum of
5 Understanding may be established with other affected jurisdictions for this purpose,
6 and an appropriate agreement or Memorandum of Understanding may also be
7 established for this purpose with the FDOT.

8 C. Application Process

9 1. Upon notification of a lack of capacity to satisfy transportation concurrency, the applicant
10 shall also be notified in writing of the opportunity to satisfy transportation concurrency
11 through the Proportionate Fair-Share Program pursuant to the requirements of Section 5.07,
12 B.

13
14 2. Prior to submitting an application for a proportionate fair-share agreement, a pre-
15 application meeting shall be held to discuss eligibility, application submittal requirements,
16 potential mitigation options, and related issues. If the impacted facility is on the FIHS or
17 SIS, then the FDOT will be notified and invited to participate in the pre-application meeting.
18 FDOT will also be notified of impacts on non-SIS/FIHS state roads, and FDOT will be
19 invited to participate in pre-application meetings regarding mitigation on these state facilities
20 as well, unless FDOT declines to participate in these discussions.

21
22 3. Eligible applicants shall submit an application to the St. Lucie County Department of
23 Growth Management that includes an application fee to be established by Resolution of the
24 Board of County Commissioners, which fee shall be periodically updated, and the following:

25 (a) Name, address and phone number of owner(s), developer and agent;

26 (b) Property location, including parcel identification numbers;

27 (c) Legal description and survey of property;

28 (d) Project description, including type, intensity and amount of development;

29 (e) Phasing schedule, if applicable;

30 (f) Description of requested proportionate fair-share mitigation method(s); and

31 (g) Copy of concurrency application.

32
33 4. The Director of Growth Management, or his/her designee, shall review the application
34 and certify that the application is either complete or incomplete within 10 business days.
35 A determination of insufficiency (that the application does not contains all of the
36 necessary information in a form that is professionally acceptable and allows independent
37 review) can be made at any time during the application review. If a finding of
38 insufficiency is made, the time required by the Land Development Code to complete the
39 review shall be tolled until the application is found to be sufficient by the Director of

1 Growth Management or his/her designee. In the case of a serious deficiency, the review
2 time may be reset to the beginning of the maximum mandated review period.

3
4 If an application is determined to be insufficient, incomplete or inconsistent with the
5 general requirements of the Proportionate Fair-Share Program as indicated in Section B,
6 then the applicant will be notified in writing of the reasons for such deficiencies within
7 two working days of the date of the determination of incompleteness or insufficiency. If
8 such deficiencies are not remedied by the applicant within 30 days of receipt of the
9 written notification, then the application will be deemed abandoned. The Director of
10 Growth Management may, in his/her sole discretion, grant an extension of time not to
11 exceed 60 days to cure such deficiencies, provided that the applicant has shown good
12 cause for the extension and has taken reasonable steps to effect a cure. Should the
13 Director of Growth Management, or his/her designee, deny a request for an extension, the
14 denial may be appealed to the Board of County Commissioners using the procedure
15 established in Section 11.11.00 of the St. Lucie County Land Development Code, as it
16 may be amended from time to time.

17
18 5. Pursuant to §163.3180(16) (e), F.S., proposed proportionate fair-share mitigation for
19 development impacts to facilities on the SIS requires the concurrence of the FDOT. The
20 applicant shall submit evidence of an agreement between the applicant and the FDOT for
21 inclusion in the proportionate fair-share agreement.

22
23 6. When an application is deemed sufficient, complete, and eligible, the applicant shall be
24 advised in writing and a proposed proportionate fair-share obligation and binding
25 agreement will be prepared by the applicant using a standard form published by the
26 Director of Growth Management and approved as to legal sufficiency by the County
27 Attorney and delivered to the Department of Growth Management with the number of
28 copies required for review by the Director of Growth Management or his/her designee,
29 including a copy to the FDOT for any proposed proportionate fair-share mitigation on a
30 SIS facility, no later than 60 days from the date at which the applicant received the
31 notification of a sufficient application and no fewer than 20 working days prior to the
32 Development Review Committee meeting when the agreement will be considered,
33 whichever occurs first. The proposed agreement shall be processed with the application
34 for approval of a development order, in accordance with the procedure established by the
35 Land Development Code for the type of application being processed. Except that
36 agreements are contracts that must be approved by the Board of County Commissioners,
37 and the agreement must be processed to the Board of County Commissioners for their
38 approval, even though the accompanying development application is otherwise exempt
39 from review by the Board of County Commissioners. Upon a recommendation of
40 approval by the Development Review Committee (DRC), the Growth Management
41 Director will receive the DRC recommendations within three working days of the date of
42 the DRC meeting. The Growth Management Director will cause the preparation of an
43 agenda item, with a staff report and proposed amended agreement that includes any
44 proposed modifications to the Development Agreement recommended by the
45 Development Review Committee, the Growth Management Director, and the County
46 Attorney. The agenda item will be scheduled for hearing by the appropriate hearing body
47 (Planning and Zoning Commission or Board of County Commissioners) based on the
48 next step in the application review process for the application that is supported by the
49 agreement. The proposed agreement will be submitted simultaneously with the agenda

1 item for the consideration of the approval of the project which the agreement supports,
2 except in cases where modifications to a previously approved agreement are being
3 considered with no corresponding amendments to the proposed land development, or the
4 adoption hearing for the agreement following its review by the State Land Planning
5 Agency.

6
7 7. The Director of Growth Management, or his/her designee, shall notify the applicant
8 regarding the dates of the Planning and Zoning Commission and Board of County
9 Commissioners meeting(s) when the agreement will be considered. No proportionate fair-
10 share agreement will be effective until approved by the Board of County Commissioners.

11
12 **D. Determining Proportionate Fair-Share Obligation**

13 1. Proportionate fair-share mitigation for concurrency impacts may include, without
14 limitation, separately or collectively, private funds, contributions of land, and construction
15 and contribution of facilities. [Note: This language is as provided in §163.3180 (16) (c),
16 F.S.].

17 2. A development shall not be required to pay more than its proportionate fair-share. The
18 fair market value of the proportionate fair-share mitigation for the impacted facilities shall
19 not differ regardless of the method of mitigation. [Note: This language is as provided in
20 §163.3180 (16) (c), F.S.]

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

23 "The cumulative number of trips from the proposed development expected to reach
24 roadways during peak hours from the complete build out of a stage or phase being
25 approved, divided by the change in the peak hour maximum service volume (MSV) of
26 roadways resulting from construction of an improvement necessary to maintain the
27 adopted LOS, multiplied by the construction cost, at the time of developer payment, of
28 the improvement necessary to maintain the adopted LOS."

29 OR

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

31
32 Where:

33 Development Trips_i = Those trips from the stage or phase of development under review
34 that are assigned to roadway segment "i" and have triggered a
35 deficiency per the CMS;

36 SV Increase_i = Service volume increase provided by the eligible improvement to
37 roadway segment "i" per section E;

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

1
2 4. For the purposes of determining proportionate fair-share obligations, the Director of
3 Growth Management shall determine improvement costs based upon the actual cost of the
4 improvement as obtained from the five year Capital Improvements Program in the adopted
5 Comprehensive Plan Capital Improvements Element, the MPO/TIP or the FDOT Work
6 Program. Where such information is not available, improvement cost shall be determined
7 using one of the following methods:

8 a. An analysis by the Director of Growth Management, or his/her designee, of
9 costs by cross section type that incorporates data from recent projects and is
10 updated annually and based upon actual cost data supplied by the Director of
11 Public Works, or his/her designee. In order to accommodate increases in
12 construction material costs, project costs shall be adjusted by the inflation factor
13 currently in use by the Florida Department of Transportation, unless the County
14 Engineer or Director of Public Works prescribe a different inflation factor; or

15 b. The most recent issue of FDOT *Transportation Costs*, (incorporated herein by
16 reference) as adjusted based upon the type of cross-section (urban or rural);
17 locally available data from recent projects on acquisition, drainage and utility
18 costs; and significant changes in the cost of materials due to unforeseeable events.
19 Cost estimates for state road improvements not included in the adopted FDOT
20 Work Program shall be determined using this method in coordination with the
21 FDOT District.

22 5. If the County Engineer has accepted and approved an improvement project proposed by
23 the applicant, then the value of the improvement shall be determined using one of the
24 methods provided in this section, unless the applicant's engineer has presented a signed and
25 sealed cost estimate for the proposed construction, which cost estimate has been reviewed
26 and approved by the County Engineer, which approved cost estimate (including any
27 necessary adjustments for inflation) shall then be the basis for determining the value of the
28 improvement.

29 6. If St. Lucie County has accepted right-of-way dedication for the proportionate fair-share
30 payment, credit for the dedication of the non-site related right-of-way shall be valued on the
31 date of the dedication at 120 percent of the most recent assessed value by the County
32 property appraiser or, at the option of the applicant, by fair market value established by an
33 independent appraisal approved by the St. Lucie County Right-of-Way Acquisition Program
34 staff and at no expense to St. Lucie County. The applicant shall supply a drawing and legal
35 description of the land and a certificate of title or title search of the land to the Director of
36 Growth Management, or his/her designee, at no expense to the St. Lucie County. If the
37 estimated value of the right-of-way dedication proposed by the applicant is less than the
38 County estimated total proportionate fair-share obligation for that development, then the
39 applicant shall also pay the difference. Prior to purchase or acquisition of any real estate or
40 acceptance of donations of real estate intended to be used for the proportionate fair-share,
41 public or private partners should contact the FDOT for essential information about

1 compliance with federal law and regulations. The applicant shall provide the County
2 Engineer with a Phase I environmental assessment of the right of way proposed to be
3 dedicated to the county. The right of way shall not be accepted until the County Engineer
4 approves the Phase I environmental assessment, and reports that the property is suitable for
5 use as county right of way.

6
7 **E. Impact Fee Credit for Proportionate Fair-Share Mitigation**

8 1. Proportionate fair-share contributions shall be applied as a credit against impact fees to
9 the extent that all or a portion of the proportionate fair-share mitigation is used to address the
10 same capital infrastructure improvements contemplated by the local government's impact fee
11 ordinance.

12 2. Impact fee credits for the proportionate fair-share contribution will be determined when
13 the transportation impact fee obligation is calculated for the proposed development. Impact
14 fees owed by the applicant will be reduced per the Proportionate Fair-Share Agreement as
15 they become due per the St. Lucie County Impact Fee Ordinance, as it may be amended from
16 time to time. If the applicant's proportionate fair-share obligation is less than the
17 development's anticipated road impact fee for the specific stage or phase of development
18 under review, then the applicant or its successor shall also pay the remaining impact fee
19 amount to St. Lucie County pursuant to the requirements of the St. Lucie County impact fee
20 ordinance.

21 3. Major projects not included within the local government's impact fee ordinance or
22 created under Section 5.07, B. (2) (a) and (b) which can demonstrate a significant benefit to
23 the impacted transportation system may be eligible at the local government's discretion for
24 impact fee credits.

25 4. The proportionate fair-share obligation is intended to mitigate the transportation impacts
26 of a proposed development at a specific location. As a result, any road impact fee credit
27 based upon proportionate fair-share contributions for a proposed development may only be
28 applied toward the construction of another improvement within that same corridor or sector
29 that would mitigate the impacts of development pursuant to the requirements of Section 5.07.
30 B. 2. b.

31
32 **F. Proportionate Fair-Share Agreements**

33 1. Upon execution of a proportionate fair-share agreement (Agreement) the applicant shall
34 be entitled to receive a St. Lucie County Letter of Capacity Reservation, and upon project
35 approval and issuance of a Development Order, the applicant shall receive a Certificate of
36 Capacity from the Director of Growth Management, or his/her designee. Except as otherwise
37 provided in Section 5.08.04.B of this Chapter, as it may be amended from time to time,
38 should the applicant fail to apply for a building permit within 36 months of the execution of
39 the Agreement, or obtain an extension of the 36 month time period as provided in the St.
40 Lucie County Land Development Code, except for subdivisions, the Certificate of Capacity
41 shall be considered null and void, and the applicant shall be required to reapply. For

1 subdivisions, the Certificate of Capacity shall be vested once site work is commenced and
2 major subdivision improvements are lawfully installed or under construction, or when
3 required improvements are secured by a developer's unexpired financial guarantee in
4 accordance with this Land Development Code and the plat is recorded. This section shall
5 not waive any other requirements of Chapter V for new concurrency tests that developers
6 may be obligated to provide as a result of the passage of time. Should a subdivision project
7 be abandoned, so no improvements are made for a three year period of time in the
8 construction of necessary subdivision infrastructure, and the subdivision development order
9 is expired, then the Certificate of Capacity for the subdivision shall also expire. In cases
10 where an applicant has consistently and reasonably pursued construction and issuance of a
11 building permit has been delayed as a result of an act of God (such as a hurricane or tornado),
12 or by delays in issuance of state or federal agency permits that are not the result of actions of
13 the applicant, the applicant may submit by letter to the Director of Growth Management a
14 request for a twelve month extension of the expiration date of the 36 month Certificate of
15 Capacity. The Director of Growth Management or his or her designee shall require
16 substantiation of the applicant's efforts to diligently and without unreasonable delay pursue
17 permitting and construction, and shall submit the documentation along with staff
18 recommendations to the Board of County Commissioners for their consideration for
19 approval, approval with conditions, or denial of the requested extension. The Director of
20 Growth Management or his/her designee shall confer with other departments and state and
21 federal agencies as necessary to develop a complete and well-documented report to the Board
22 of County Commissioners.

23 2. Payment of the proportionate fair-share contribution is due in full prior to issuance of the
24 final development order or recording of the final plat and shall be non-refundable, unless a
25 development order is abandoned following approval of an applicant's formal request to
26 rescind approval of the applicant's preliminary or final development order, or the application
27 expires, or the development order expires and the funds paid for the proportionate fair share
28 contribution, including any impact fee credits, have not been used for their intended purpose,
29 and no development has occurred on the applicant's proposed development site. When a
30 development is abandoned, as noted in the previous sentence, impact fees may be refunded in
31 accordance with the provisions of the County Impact Fee Code regarding refunds of impact
32 fees, and additional impact mitigation may be refunded following approval by the County of
33 the requested abandonment, or expiration of a development order under the conditions listed
34 in the previous sentence. If the payment is submitted more than 12 months from the date of
35 execution of the Agreement, then the proportionate fair-share cost shall be recalculated at the
36 time of payment based on the best estimate of the construction cost of the required
37 improvement at the time of payment, pursuant to Section 5.07, D, and adjusted accordingly.

38 3. All developer improvements authorized under this ordinance must be funded prior to
39 issuance of a development permit, or as otherwise established in a binding agreement that is
40 accompanied by a security instrument that is sufficient to ensure the completion of all
41 required improvements. It is the intent of this section that any required improvements be
42 completed, or fully funded and scheduled for construction within the 5-year Capital
43 Improvements Program in the adopted Comprehensive Plan, before issuance of building
44 permits or certificates of occupancy, as appropriate based upon other provisions of this Land
45 Development Code.

1 4. Dedication of necessary right-of-way for facility improvements pursuant to a
2 proportionate fair-share agreement must be completed prior to issuance of the final
3 development order or recording of the final plat.

4 5. Any requested change to a development project subsequent to a development order may
5 be subject to additional proportionate fair-share contributions to the extent the change would
6 generate additional traffic that would require mitigation.

7 6. Applicants may submit a letter to the Director of Growth Management to withdraw from
8 the proportionate fair-share agreement at any time prior to the execution of the agreement.
9 The application fee and any associated advertising costs to St. Lucie County will be non
10 refundable.

11 7. St. Lucie County may enter into proportionate fair-share agreements for selected corridor
12 improvements to facilitate collaboration among multiple applicants on improvements to a
13 shared transportation facility.

14 8. No Proportionate Fair-Share Agreement or Development Agreement shall be amended
15 by the applicant, or by any agency, except by application by the applicant, or by a
16 government agency desiring an amendment, to the Director of Growth Management to
17 amend the Agreement, which application shall be reviewed by the Development Review
18 Committee created by Section 12.09.00 of the St. Lucie County Land Development Code,
19 and which application shall be properly noticed and heard by the Planning and Zoning
20 Commission and the Board of County Commissioners through the same process established
21 by the St. Lucie County Land Development Code for amendment of the application with
22 which the Development Agreement is associated. Government agencies desiring an
23 amendment may submit their proposals under cover of a memorandum, if the agency is a
24 county agency, or a letter of request, if the agency is not a county agency, with appropriate
25 supporting analysis, conclusions, options, and recommendations.

26
27 Independent negotiations of changes in Proportionate Fair-Share Agreements or
28 Development Agreements with individual agencies outside of the process established in this
29 subsection 5.06.02, C, are hereby prohibited. Such Agreements shall not be amended by
30 other agreements required, authorized, or otherwise permitted by state law and this code.
31 Reviewing agencies are required to address their concerns through the interagency review
32 processes established by the St. Lucie County Land Development Code for review by the
33 Development Review Committee, and shall not postpone their participation to a time after
34 the development proposal is approved. The Director of Growth Management shall determine
35 whether an amendment to a Proportionate Fair-Share Agreement or a Development
36 Agreement is a Minor Amendment or a Major Amendment. Changes to approved
37 development standards not specifically classified by the St. Lucie County Land Development
38 Code as Minor Amendments; changes to any list of permitted land uses, buffering, or
39 minimum building separation; and changes to the amount of developer contributions and
40 mitigation of impacts, and any proposed change not classified by the Director of Growth
41 Management as a minor amendment, shall not be considered Minor Amendments, and shall
42 not be processed as Minor Amendments. The County Attorney shall review all proposed
43 amended Proportionate Fair-Share Agreements and all proposed amended Development

1 Agreements for legal sufficiency, and ensure that they are legally enforceable before they are
2 presented to the Board of County Commissioners for approval. Separate agreements that are
3 not titled Proportionate Fair-Share Agreements or Development Agreements shall not be
4 inconsistent with the approved Proportionate Fair-Share Agreement and Development
5 Agreement, and shall not be used to amend an approved Proportionate Fair Share Agreement
6 or Development Agreement outside of the process herein established.

7
8 **G. Appropriation of Fair-Share Revenues**
9

10 1. Proportionate fair-share revenues shall be placed in the appropriate project account for
11 funding of scheduled improvements in the St. Lucie County adopted Comprehensive Plan
12 CIE, CIP, or as otherwise established in the terms of the proportionate fair-share agreement.
13 At the discretion of the local government, proportionate fair-share revenues may be used for
14 operational improvements prior to construction of the capacity project from which the
15 proportionate fair-share revenues were derived. Proportionate fair-share revenues may also
16 be used as a local match for funding under the FDOT TRIP or any other eligible FDOT
17 program.

18 2. In the event a scheduled facility improvement is removed from the Five-Year Capital
19 Improvements Program in the adopted Comprehensive Plan Capital Improvements Element,
20 then the revenues collected for its construction may be applied toward the construction of
21 another improvement within that same corridor or sector that would mitigate the impacts of
22 development pursuant to the requirements of Section 5.07, B, 2, b.

23 Where an impacted regional facility has been designated as a regionally significant
24 transportation facility in an adopted regional transportation plan as provided in Section
25 339.155, Florida Statutes, then St. Lucie County may coordinate with other impacted
26 jurisdictions and agencies to apply proportionate fair-share contributions and public
27 contributions to seek funding for improving the impacted regional facility under the FDOT
28 TRIP. Such coordination shall be ratified by St. Lucie County through an interlocal
29 agreement that establishes a procedure for earmarking of the developer contributions for this
30 purpose.

31 3. In order to protect the public health, safety, and welfare, and to provide for the
32 convenience of the traveling public at least cost, an owner/developer may be required to
33 construct a transportation facility that is not budgeted in the Five-Year Capital Improvements
34 Program in the adopted Comprehensive Plan at a cost more than the Owner/Developer's
35 proportionate fair-share, or the Owner/Developer and the County may enter into a legally
36 enforceable development agreement that requires the Owner-Developer to advance funds to
37 pay the costs of improvements covered by the Agreement in amounts greater than the
38 Owner/Developer's proportionate fair-share. In the instance where the developer's
39 contribution results in full funding of the project, the project will be placed in the first three
40 years of the County's five-year CIP. In the instance where the project is dependent upon
41 funds that are not yet available (such as grants or a yet-to-be-created special district), the

1 project will be placed in year four or five of the 5-year CIP. In these cases where an
2 Owner/Developer is subject to the proportionate fair-share formula, but due to a lack of other
3 funding sources must contribute an amount in excess of the Owner/Developer's
4 proportionate fair share for new facilities, or critical improvements to existing facilities, St.
5 Lucie County shall reimburse the excess contribution to the Owner/Developer using one or
6 more of the following methods:

7 a. An impact fee credit account may be established for the applicant in the amount of the
8 excess contribution, a portion or all of which may be assigned or reassigned under the terms
9 and conditions acceptable to St. Lucie County; or

10 b. An account may be established for the applicant for the purpose of reimbursing the
11 applicant for the excess contribution with proportionate fair-share payments from future
12 applicants on the facility, proportionate share costs due from other developments impacting
13 the new or improved facility will be calculated based on the capacity available before the
14 improvements were made ; or

15 c. The county may compensate the applicant for the excess contribution through
16 payment, including impact fee reimbursement, or some combination of means acceptable to
17 the county and the applicant, and included in a Proportionate Fair-Share Agreement, or
18 Development Agreement.

19 **5.01.00 5.08.00 REVIEW OF DEVELOPMENT ORDERS**

20
21 **5.01.01 5.08.01 APPLICATION FOR CERTIFICATE OF CAPACITY**

- 22
23 A. Prior to receipt of a Final Development Order, all applicants shall receive approval of a
24 ~~eertificate of capacity~~ Capacity Encumbrance Letter, a Certificate of Capacity Variance,
25 or a Certificate of Capacity Exemption.
26
27 B. Prior to receipt of a Preliminary Development Order, all applicants shall elect and receive
28 approval of one of the following:
29
30 1. ~~A Certificate of Capacity; or~~
31
32 1. A Capacity Encumbrance Letter; or
33
34 2. A Certificate of Capacity Exemption; or
35
36 3. A Certificate of Capacity Variance; or
37
38 C. A Concurrency Deferral Affidavit shall be provided for those Preliminary Development
39 Orders where no reservation of capacity is requested or provided.
40

41 **5.01.02 5.08.02 REQUIREMENTS FOR CERTIFICATE OF CAPACITY**

42
43 **A. GENERAL**

1
2 An application for a Final Development Order which requires a Certificate of Capacity
3 pursuant to Section 5.01.01 shall not be accepted unless the applicant concurrently
4 submits an application for a Certificate of Capacity.
5

6 No Certificate of Capacity, or capacity encumbrance letter, shall be issued except after a
7 concurrency evaluation and test has been conducted pursuant to the requirements of this
8 Chapter V of the St. Lucie County Land Development Code which indicates that capacity
9 for the proposed development is available at the adopted Levels of Service with respect to
10 all applicable public facilities and services. Should the concurrency evaluation and test
11 show that capacity is not available for one or more facilities or services, then the
12 Certificate of Capacity, or capacity encumbrance letter, shall not be issued until a legally
13 enforceable agreement has been approved that provides for acceptable mitigation of the
14 development impacts on the adversely affected facilities, or the improvements necessary
15 to provide the additional capacity needed to accommodate the development at the
16 adopted levels of service have been constructed and approved by the County.
17

18 **B. SUBMISSION OF APPLICATION TO ~~COMMUNITY~~ DEVELOPMENT**
19 **DIRECTOR OF GROWTH MANAGEMENT**
20

21 An application for a Certificate of Capacity shall be made to the ~~Community~~
22 Development Director of Growth Management. The application shall not be accepted
23 while another application is pending for a Certificate of Capacity for the same
24 development, or any appeal relating thereto, or while an application is pending for
25 another development on all or a portion of the same development site.
26

27 **C. APPLICATION CONTENTS**
28

29 The application shall consist of the following information:
30

- 31 1. The name, address and telephone number of the applicant, the representative, if
32 any, and the owner.
33
- 34 2. The street address and locator numbers of the parcel(s) on which the development
35 is proposed to occur.
36
- 37 3. An 8.5" x 11" vicinity map locating the subject property in unincorporated St.
38 Lucie County.
39
- 40 4. A written description of the proposed development including statements about:
41
 - 42 a. The total area of the proposed development, the type of residential or non-
43 residential development proposed, the number of residential units and the
44 square footage of non-residential development.
45
 - 46 b. The tentative construction schedule for the proposed development,
47 including if applicable, a tentative schedule for phasing construction.
48
 - 49 c. A description and analysis of the impact of the development on public

1 facilities in accordance with the methodologies acceptable to the County.

- 2
3 5. The designation of an individual, whether the applicant or an officer, as agent or
4 representative of the applicant, including the mailing address of the agent.
5

6 **D. DETERMINATION OF COMPLETENESS AND REVIEW**

7
8 After receipt of an application for a Certificate of Capacity, the ~~Community Development~~
9 Growth Management Director, or his/her designee shall determine whether it is complete
10 within ten (10) working days. If it is determined that the application is not complete,
11 written notice shall be forwarded to the applicant specifying the deficiencies. The
12 ~~Community Development~~ Growth Management Director or his/her designee shall take no
13 further action on the application unless the deficiencies are remedied, and the underlying
14 development order application has been determined to be complete and sufficient.
15

16 **5.08.03 CONCURRENCY TEST**

- 17
18 A. Within twenty (20) working days after the determination of completeness, or concurrent
19 with a response to an application for a Development Order for which the Certificate of
20 Capacity is sought, the ~~Community Development~~ Growth Management Director or
21 designee shall perform a Concurrency Test (a comparison of a proposed development's
22 impact on public facilities and services with the capacity of the public facilities and
23 services that are, or will be, available to serve the proposed development no later than the
24 time the impacts of the development are expected to occur) for each application for a
25 Certificate of Capacity.
26
27 B. If the capacity of public facilities is equal to or greater than the capacity required to
28 maintain the level of service standard for the impact of the development on the public
29 facilities, the Concurrency Test shall be approved, and the applicant shall be eligible to
30 receive a Certificate of Capacity. Upon making a determination that the applicant is
31 eligible to receive a Certificate of Capacity, the Director of Growth Management, or
32 his/her designee, shall issue a Capacity Encumbrance Letter that shall encumber the
33 capacity of the facilities covered by the letter for a period of 180 days.
34
35 C. If the capacity of available public facilities is less than the capacity required to maintain
36 the level of service standard from the impact of the development on public facilities, the
37 Concurrency Test shall be denied, and the applicant shall select one of the following
38 options:
39
40 1. Accept a 15-day encumbrance of public facilities that are available, and, within
41 the same 15-day period, amend the development requested in the application to
42 reduce the needed public facilities to the capacity that is available;
43
44 2. Accept a 90-day encumbrance of public facilities that are available, and, within
45 the same 90-day period provide for public facilities that are not otherwise
46 available;
47
48 3. Reapply for a certificate of capacity not less than 6 months following the denial of
49 an application for a certificate of capacity; or

1
2 4. Appeal the denial of the application for a certificate of capacity, pursuant to the
3 provisions of Section 11.00.00.
4

5 **5.01.04 5.08.04 CERTIFICATE OF CAPACITY**
6

7 A. ~~A Certificate of Capacity shall be issued by the Community Development Director upon~~
8 ~~satisfactory completion of the Concurrency Test and payment of the required fee. A~~
9 ~~certificate approved by the Growth Management Director or designee pursuant to the~~
10 ~~terms of this Code that constitutes proof of adequate public facilities to serve the proposed~~
11 ~~development, herein called a "Certificate of Capacity" shall be issued by the Growth~~
12 ~~Management Director or designee upon satisfactory completion of the Concurrency Test~~
13 ~~and after approval of a Development Order for which the St. Lucie County Land~~
14 ~~Development Code Requires a Certificate of Capacity, construction of required mitigation~~
15 ~~improvements, if any, or approval of a legally binding development agreement to provide~~
16 ~~or fund the required mitigation improvements, if any, and payment of the required fee.~~
17 ~~The Certificate of Capacity shall be issued after approval of the issuance of a~~
18 ~~Development Order, and prior to or concurrent with the issuance of an approved~~
19 ~~Development Order.~~
20

21 B. ~~A Certificate of Capacity shall be valid for the same period of time as the Development~~
22 ~~Order with which it was issued, and shall constitute a reservation of public facility~~
23 ~~capacity for the proposed development. If the Development Order does not have an~~
24 ~~expiration date, the Certificate of Capacity shall be valid for two (2) years. A Certificate of~~
25 ~~Capacity shall be valid for the same period of time as the Development Order with which~~
26 ~~it was issued, and shall constitute a reservation of public facility capacity for the proposed~~
27 ~~development, except that a new concurrency test shall be performed for any development~~
28 ~~that begins after three years of the date of issuance of the certificate of capacity. If the~~
29 ~~Development Order does not have an expiration date, the Certificate of Capacity shall be~~
30 ~~valid for three (3) years. If the approved Development Order for a development order~~
31 ~~other than a Planned Unit Development, Planned Nonresidential Development, Planned~~
32 ~~Mixed Use Development, Florida Quality Development, or Development of Regional~~
33 ~~Impact has a later expiration date than the Certificate of Capacity and development has not~~
34 ~~commenced as required by the Land Development Code by the construction of substantial~~
35 ~~site improvements, or by the provision of unexpired developer guarantees for the cost of~~
36 ~~construction and maintenance of required improvements in accordance with the county~~
37 ~~Land Development Code, within three years of the date of issuance of the Development~~
38 ~~Order, then a new concurrency test shall be performed before development shall be~~
39 ~~allowed to commence and any new improvements needed as a result of changed~~
40 ~~conditions shall be mitigated by the developer. In cases where an applicant has~~
41 ~~consistently and reasonably pursued construction and issuance of a building permit has~~
42 ~~been delayed as a result of an act of God (such as a hurricane or tornado), or by delays in~~
43 ~~issuance of state or federal agency permits that are not the result of actions of the~~
44 ~~applicant, the applicant may submit by letter to the Director of Growth Management a~~
45 ~~request for a twelve month extension of the expiration date of the 36 month Certificate of~~
46 ~~Capacity. The Director of Growth Management or his or her designee shall require~~
47 ~~substantiation of the applicant's efforts to diligently and without unreasonable delay~~
48 ~~pursue permitting and construction, and shall submit the documentation along with staff~~
49 ~~recommendations to the Board of County Commissioners for their consideration for~~

1 approval, approval with conditions, or denial of the requested extension. The Director of
2 Growth Management or his/her designee shall confer with other departments and state and
3 federal agencies as necessary to develop a complete and well-documented report to the
4 Board of County Commissioners. Fee refunds for abandoned, expired, or withdrawn
5 development orders shall be processed in accordance with the provisions of Section 5.07,
6 F of this Chapter, as it may be amended from time to time.

7
8 For Local Government Development Agreements (PUD DA's) for Planned Unit
9 Developments, Planned Nonresidential Developments, and Planned Mixed use
10 Developments, Certificates of capacity shall be valid for more than two years, but not
11 more than ten years, may be issued as part of a development order for a residential or
12 mixed use subdivision, PNRD, PMUD, or a PUD DA.

13
14 For Developments of Regional Impact (DRI's), Florida Quality Developments (FQD's)
15 Certificates of Capacity shall be valid for the period or periods prescribed in the
16 applicable development order or development agreement.

17
18 Building Permits. Except for subdivisions, Building permits shall be obtained prior to
19 the expiration of the Certificate of Capacity. Construction may continue to completion
20 after the Certificate's expiration if the building permits remain valid and do not expire.

21
22 Subdivisions. Building permits for single family and duplex dwelling units on
23 individual lots within a residential subdivision, which previously received a Certificate
24 of Capacity, shall not be required to obtain a new Certificate if said subdivision received
25 final subdivision plat approval and was recorded in the public records before its
26 Certificate expired and all necessary conditions of the Certificate of Capacity have been
27 met.

28
29 C. A Certificate of Capacity may be extended according to the same terms and conditions as
30 the Development Order for which it is approved. If a Development Order is granted an
31 extension, the Certificate of Capacity, if any, shall also be extended if a new concurrency
32 test shows that adequate capacity remains available. If a concurrency test for the
33 extension of the development order shows that adequate capacity is not available, the
34 applicant shall be required to provide additional mitigation to ensure the availability of
35 adequate public facilities to support the project.

36
37 D. ~~A Certificate of Capacity may be extended to remain in effect for the life of each~~
38 ~~subsequent Development Order for the same land, as long as the applicant obtains a~~
39 ~~subsequent Development Order prior to the expiration of the earlier Development Order.~~
40 A Certificate of Capacity application shall be submitted for amendments to an existing
41 Development Order, and also for extensions of an existing Development Order.

42
43 ~~F. E.~~ A Certificate of Capacity runs with the land and is valid only for specific land uses,
44 densities and intensities on the same land, and for new owners of the same land for
45 which it was issued for a period of three years from the date it was issued.

46
47 ~~G. F.~~ A Certificate of Capacity shall expire if the underlying Development Order expires or
48 is revoked by the County ~~and the capacity has not been extended to a subsequent~~
49 ~~Development Order for the same land.~~

1
2 H. G. A Development Order and a Certificate of Capacity shall contain such reasonable
3 conditions as are necessary to ensure compliance with this Chapter. The Board of County
4 Commissioners and departments issuing a Development Order or a Certificate of Capacity are
5 authorized to impose such conditions. Conditions of approval shall be binding on the owner,
6 its heirs, successors, and assigns.

7
8 I. H. A Preliminary Development Order issued without a Certificate of Capacity shall include
9 a signed Concurrency Deferral Affidavit stating at a minimum the following:

- 10
11 1. The issuance of a Building Permit and any Final Development Order are subject
12 to the requirements for obtaining a Certificate of Capacity; and
13
14 2. No rights to obtain a Building Permit or any other Final Development Order, nor
15 any other rights to develop the subject property have been granted or implied by
16 the County's approval of the Preliminary Development Order.

17
18 **5.01.05 5.08.05 EFFECT OF A DEVELOPMENT AGREEMENT IN**
19 **CONJUNCTION WITH A CERTIFICATE OF CAPACITY**

20
21 **A. GENERAL**

22
23 St. Lucie County shall consider entering into a Development Agreement with a developer
24 to ensure adequate public facilities are available with the impacts of development on the
25 public facilities if:

- 26
27 1. ~~All existing public facility capacity up to, but not greater than, the amount~~
28 ~~sufficient to serve the development has been reserved pursuant to a Certificate of~~
29 ~~Capacity or a Certificate of Capacity Exemption;~~ A concurrency test approved by
30 the County shows that there is not adequate capacity available for one or more
31 public facilities necessary to serve the impacts of a proposed development at the
32 times required by law or this Land Development Code, whichever is more
33 restrictive; and
34
35 2. There is reasonable likelihood that the balance of the public facility capital
36 improvements identified to provide the remaining capacity needed for the
37 proposed development can be provided pursuant to a Development Agreement;
38 and,
39
40 3. A request has been made for consideration and approval of a Development
41 Agreement concurrent with the application for Development Permit to ensure the
42 proposed development complies with the standards for a Certificate of Capacity,
43 or the Director of Growth Management or designee determines that a
44 Development Agreement is necessary in order to ensure that adequate public
45 facilities requirements can be met for the proposed development, and suggests
46 requiring a legally enforceable development agreement as a condition of project
47 approval, which condition is accepted by the Board of County Commissioners for
48 projects approved by the Board, or included in a Development Order issued by the
49 Director of Growth Management or designee as authorized in this Land

1 Development Code.

2
3 **B. EFFECT**

4
5 The effect of the Development Agreement shall be to bind St. Lucie County and the
6 developer pursuant to the terms and duration of the Development Agreement.
7 Improvements required by a legally enforceable Development Agreement that are needed
8 to support proportionate fair share contributions, including those improvement options
9 allowed pursuant to section 5.07, B, from one or more developers are required to be
10 added to the Five Year Capital Improvements Program at the next available Five Year
11 Capital Improvements Program comprehensive plan amendment, and transmitted to the
12 State Land Planning Agency for annual review. No Development Agreement shall be
13 approved that does not identify all funding sources for the total cost of improvements,
14 and alternative sources of funding for those funding sources that are not available and
15 committed (e.g. establishment of special districts, future bond issues, grant funding, etc.).
16 The Office of Management and Budget, for County funds, and the funding agency for
17 other funds, must certify the feasibility of potential funding within the required time
18 constraints. The Office of Management and Budget must certify the availability of
19 County funds from proposed revenue sources in the event other potential funding sources
20 fail to become available within the specified time. The required certification from the
21 Office of Management and Budget shall be timely, so as not to unreasonably delay the
22 consideration of the proposed Development Agreement.

23
24 **C. Amendments to approved development agreements.**

25
26 Amendments to approved development agreements shall be processed in accordance with
27 this Chapter V, Section 5.06.02. Additional agreements of any kind shall be consistent with the
28 approved Development Agreement, and to the extent they conflict with the approved
29 Development Agreement shall be invalid. Development Agreement amendments shall be
30 processed through the Department of Growth Management in the same manner in which the
31 original agreement was approved, except that Section 5.01.05 authorizes the Director of Growth
32 Management to classify certain amendments as minor amendments that may be approved
33 administratively by the Director of Growth Management.

34
35 **5.04.00 5.09.00 VARIANCES**

36
37 **5.09.01 CERTIFICATE OF CAPACITY VARIANCE**

38
39 A. So as to provide for a reasonable economic use of land in those rare instances where a
40 strict application of the adequate public facilities requirements of this Chapter would constitute
41 an unconstitutional taking of property without due process of law, the Community Development
42 Director may issue a Certificate of Capacity Variance. This Certificate may be issued only if the
43 Community Development Director finds and the County Attorney confirms all of the following
44 circumstances to be true:

45
46 1. A Certificate of Capacity has been denied for the proposed development pursuant to the
47 requirements of Section ~~5.01.03~~ 5.08.03, and an appeal to the County Administrator pursuant to
48 Section 11.11.00 has affirmed that decision.

1 2. There are not sufficient public facilities available to serve the development without
2 violating the minimum requirements of this Chapter;

3
4 3. No reasonable economic use can be made of the property by conditioning the
5 Development Order upon sufficient public facilities becoming available as provided for in this
6 Chapter.

7
8 4. No reasonable economic use can be made of the property unless a Development Order
9 for the property for which application has been made is issued.

10
11 5. The request to vary from the requirements of this Chapter is the minimum variance which
12 would allow any reasonable economic use and in no instance shall provide for no greater an
13 impact than one (1%) percent of the ~~design capacity for the affected system~~ maximum service
14 volume at the adopted level of service for the affected road system or intersection, which impact
15 shall be a de minimis impact, and shall be reported to the State Land Planning Agency in the
16 annual report of de minimis impacts as required by law. The de minimis impact shall not be
17 permitted without acceptable mitigation should the sum of existing roadway volumes and the
18 projected volumes from approved projects on an affected transportation facility exceed 110% of
19 the capacity of the facility at its adopted level of service.

20
21 6. A plan for development is provided demonstrating how the property will be developed,
22 and how the proposed development is consistent with the St. Lucie County Comprehensive Plan;
23 and,

24
25 7. Approval of the Certificate of Capacity Variance is conditioned on the initiation of
26 development at the allowable density subject to the receipt of a Certificate of Capacity within
27 two (2) years of the time public facilities are available to serve the proposed development.

28
29 Upon making a finding of the foregoing circumstances to be true, the ~~Community Development~~
30 ~~Director of Growth Management~~ shall issue a Certificate of Capacity Variance with the
31 necessary conditions to protect the public health, safety and welfare and give effect to the
32 purpose of this Chapter.

33
34 B. Any Development Order which is issued based upon a Certificate of Capacity Variance
35 shall be consistent with it and incorporate all of the conditions placed on the Certificate by the
36 ~~Community Development~~ Director of Growth Management.

37
38 C. A Certificate of Capacity Variance shall be valid for the same period as the Development
39 Order with which it was issued. If the Development Order does not have an expiration date, the
40 Certificate of Capacity Variance shall be valid for two (2) years.

41
42
43 **5.10.00** **CAPACITY INFORMATION LETTERS**

44
45 **5.10.01** **PURPOSE**

46
47 A capacity information letter is a nonbinding analysis of existing levels of service for
48 public facilities and services in the vicinity of the parcel of land identified in the application at
49 the time the capacity information letter is issued, and does not guarantee capacity in the future or

1 encumber/reserve capacity for any period of time. The capacity information letter does not
2 purport to analyze the impacts of the applicant's proposed project on public facilities and
3 services nor to determine if the existing levels of service are sufficient (a) to permit development
4 of a particular parcel of land; (b) to authorize the issuance of a capacity encumbrance letter, or
5 (c) to authorize the issuance of a certificate of capacity.

6
7 The issuance of a capacity information letter does not relieve the applicant from
8 complying with the remaining provisions of this Chapter V of the St. Lucie County Land
9 Development Code with respect to capacity encumbrance or capacity reservation.

10
11 **5.10.02 APPLICATION**

12
13 **A. Generally**

14
15 An application for a capacity information letter shall be submitted to the Growth Management
16 Director, or his/her designee, together with the required fee. Any person seeking a capacity
17 information letter shall submit the following information to the Director of Growth Management,
18 or his/her designee, on a form prescribed by the Director of Growth Management. No such
19 application shall be accepted (or deemed accepted) until it is determined to be complete by the
20 Department of Growth Management, and the required fees are paid.

- 21
22 1. Date of submittal;
23 2. Applicant's name, address and telephone number;
24 3. Property Appraiser's Parcel ID Number and legal description.

25
26 **B. Processing of the application by the Department of Growth Management**

27
28 The Department of Growth Management shall determine the completeness of the
29 application for a capacity information letter within five working days, and shall send notice to
30 the applicant. Upon a determination that the application is complete, the Director of Growth
31 Management, or his/her designee, shall assess the existing levels of service for public facilities
32 and services in the vicinity of the parcel using the CMS database and information system,
33 accounting for existing and committed development, plus any applications in process at the time
34 the application is received. A capacity information letter will be issued within ten (10) working
35 days from the date the application is deemed complete.

36
37 **C. Contents of the Capacity Information Letter**

38
39 At a minimum, the capacity information letter shall contain:

- 40
41 1. Date of issuance of the letter;
42 2. Applicant's name, address, and telephone number;
43 3. Property Appraiser's Parcel ID Number and legal description;
44 4. Name and location of nearest potable water facility and provider and available
45 capacity if supplied by the county;
46 5. Name and location of nearest sanitary sewer facility and provider and available
47 capacity if supplied by the county;
48 6. Available capacity of park and recreational facilities;
49 7. Available capacity of solid waste facilities; and

1 8. Available capacity of road links and intersections within two mile of the property
2 boundaries.

3
4 **5.05.00 5.11.00 FEES**

5
6 **5.11.01 CONCURRENCY TEST FEE**

7
8 The ~~Community Development~~ Director of Growth Management shall charge each applicant a
9 Concurrency Test fee in an amount to be established in accordance with Section 11.12.00 of this
10 Code. The Concurrency Test fee shall not be refundable. In addition, the applicant shall pay the
11 county's costs of consultants to review the applicant's development project, transportation
12 impact report, and mitigation proposals in making the county's determination regarding
13 concurrency, required mitigation and costs of mitigation.

14
15 **5.05.02 5.11.02 PROCESSING FEE**

16
17 The ~~Community Development~~ Director of Growth Management shall charge a processing fee to
18 any person that requests an informal analysis of capacity ~~if the requested analysis requires~~
19 ~~substantially the same analysis and evaluation as a Concurrency Test~~ herein termed a capacity
20 information letter. The processing fee shall be non-refundable and non-assignable. The fee for a
21 concurrency information letter shall be set by Resolution of the Board of County Commissioners,
22 and shall be updated from time to time.

23
24 In addition, the applicant shall pay the county's costs of consultants to review the applicant's
25 development project, transportation impact report, and mitigation proposals in making the
26 county's determination regarding concurrency, required mitigation and costs of mitigation.

27
28 **5.05.03 5.11.03 CERTIFICATE OF CAPACITY RESERVATION FEE**

29
30 A. (This Section Reserved for Future Use)

31
32 **5.06.00 5.12.00 CONFLICT WITH OTHER REGULATIONS**

33
34 In the case of conflict between this Chapter and any other County ordinance, code or regulation,
35 the provisions of this Chapter shall govern; provided, however, that development rights pursuant
36 to a Vested Rights Special Use Permit shall be governed by the regulations authorizing issuance
37 of such permits.

38
39 **SECTION 2. CONFLICTS.**

40
41 All ordinances, or parts of ordinances, in conflict herewith are invalid to the extent of such
42 conflicts, and the same are hereby repealed.

43
44 **SECTION 3. SEVERABILITY.**

45
46 If any portion of this ordinance is for any reason held or declared to be unconstitutional,
47 inoperative or void, such holding shall not affect the remaining portions of this ordinance. If this
48 ordinance or any provision thereof shall be held to be inapplicable to any person, property, or

1 circumstance, such holding shall not affect its applicability to any other person, property, or
2 circumstance.

3
4 **SECTION 4. FILING WITH THE DEPARTMENT OF STATE.**

5
6 The Clerk is hereby directed forthwith to send a certified copy of this ordinance to the
7 Bureau of Administrative Code and Laws, Department of State, The Capitol, Tallahassee,
8 Florida 32304.

9
10 **SECTION 5. EFFECTIVE DATE.**

11
12 This ordinance shall take effect upon filing with the Department of State.

13
14 **SECTION 6. CODIFICATION.**

15
16 Provisions of this ordinance shall be incorporated in the Code of Ordinances of St. Lucie
17 County, Florida, and the sections of this ordinance may be renumbered or relettered to
18 accomplish such intention; provided, however, that Sections 2 through 4 shall not be codified.

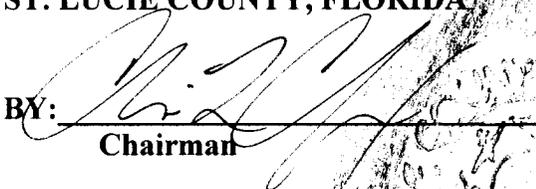
19
20 **PASSED AND DULY ADOPTED** this 5th day of December 2006.

21
22
23 **ATTEST:**

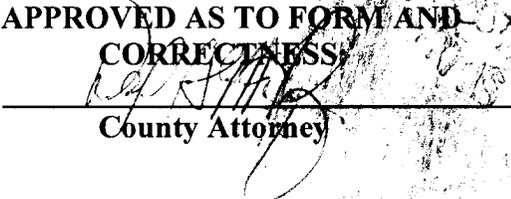
24
25
26 
27 **Deputy Clerk**



28
29
30
31
32
**BOARD OF COUNTY COMMISSIONERS
ST. LUCIE COUNTY, FLORIDA**

BY: 
Chairman

**APPROVED AS TO FORM AND
CORRECTNESS**


County Attorney