

ARTICLE VII. CONCURRENCY MANAGEMENT

Sec. 94-251. Findings.

The Board of County Commissioners hereby makes the following findings:

- (1) Pursuant to Article VIII, Section 1(g) of the Constitution of the State of Florida, the Sarasota County Home Rule Charter, and the Local Government Comprehensive Planning and Land Development Regulation Act, F.S. ch. 163, pt. II (F.S. § 163.3161 et seq.), as amended ("the Act"), Sarasota County is authorized and required to adopt a Comprehensive Plan.
- (2) The Board of County Commissioners of Sarasota County adopted the Sarasota County Comprehensive Plan, in accordance with the provisions of the Act, including the adoption of acceptable levels of service for public facilities including transportation, potable water, sanitary sewer, parks, drainage, solid waste and public schools.
- (3) The Act requires Sarasota County to adopt or amend and enforce land development regulations within one year after submission of its revised Comprehensive Plan for review by the State land planning agency.
- (4) Local land development regulations implemented pursuant to the provisions of the Act are required to contain provisions that public facilities meet or exceed the level of service standards established by the local Comprehensive Plan, and that the local government shall not issue a Development Order or permit which results in a reduction in the levels of service for the affected public facilities below the adopted levels of service provided in the Comprehensive Plan.
- (5) The Board of County Commissioners of Sarasota County deems it necessary under the authority thus granted to it to adopt and enforce concurrency management system regulations for all lands and waters subject to the jurisdiction of the County for the purpose of achieving the intent of the Florida Legislature as set forth in the Act, such that public facilities and services needed to support development shall be available concurrent with the impacts of such development.
- (6) The availability of Public School Facilities is necessary for the public health, safety, and general welfare.
- (7) New residential growth and development within Sarasota County has an impact on Available School Capacity of Public School Facilities, which impact can be mitigated by the timing and sequencing of development as provided herein.
- (8) The School District has prepared and adopted a financially feasible Sarasota School District Five-Year Capital Facilities Plan to provide the Public School Facilities needed to accommodate projected rates of residential growth, which will be reviewed and updated annually to reflect changes in Sarasota County's growth rate, available financial resources, and other relevant factors; and said updates will be incorporated into the Comprehensive Plan so that Adopted Levels of Service are maintained.
- (9) The Adopted Levels of Service for each level or type of school are necessary for the protection of the public health, safety and welfare, and will not unduly inhibit new residential growth and development within Sarasota County.
- (10) The impacts on Public School Facilities resulting from new residential development may be mitigated by measures that either reduce projected impacts on, or increase the School Capacity of, Public School Facilities.
- (11) The Board of County Commissioners, sitting as the Sarasota County Land Development Regulation Commission, has reviewed the proposed ordinance codified in this article and has found that it is Consistent with the Comprehensive Plan.

(Ord. No. 89-103, § 1, 10-3-1989; Ord. No. 99-033, § 1, 5-11-1999; Ord. No. 2008-103, § 2, 9-10-2008)

Sec. 94-252. Definitions.

For the purpose of this article, the following definitions shall apply:

Act means the Local Government Comprehensive Planning and Land Development Regulation Act, F.S. ch. 163, pt. II, as amended (F.S. § 163.3161 et seq.).

Apoxsee, the Revised and Updated Sarasota County Comprehensive Plan, or Apoxsee means the document adopted by the Board of County Commissioners and filed with the Clerk of said Board pursuant to Sarasota County Ordinance No. 89-18, as amended.

Board means the Board of County Commissioners of Sarasota County, Florida.

Consistent with the Sarasota County Comprehensive Plan or In Conformity with the Sarasota County Comprehensive Plan means that the land uses, densities or intensities and other aspects of development permitted by a Development Order are compatible with and further the goals, objectives, policies, land uses, and densities or intensities in the Sarasota County Comprehensive Plan pursuant to the provisions of Sarasota County Ordinance No. 89-18, as the Comprehensive Plan and said ordinance may be amended from time to time.

Decision-Making Authority means any State or local government commission, board, agency, business center or official having authority to issue a Development Order as defined herein.

Development Order means any action granting, denying, or granting with conditions an application for a Development Permit.

Development Permit means any building permit, zoning permit, preliminary subdivision plan, subdivision or other plat approval, site and development plan approval, rezoning, certification, special exception, variance, environmental permit or any other official action of Sarasota County or any other State or local government commission, board, agency, business center or official having the effect of permitting development of land located within the geographic area subject to the provisions of this article. "Development" shall include all activities set forth in F.S. § 360.04.

Final Development Order or Final Local Development Order means construction plan approval for subdivision improvements, construction plan approval for other types of development requiring site and development plans, or building permits.

Sarasota County Comprehensive Plan means those portions of Apoxsee adopted by the Board pursuant to Sarasota County Ordinance No. 89-18 as the Sarasota County Comprehensive Plan as required by F.S. ch. 163, pt. I (F.S. § 163.01 et seq.).

(Ord. No. 89-103, § 2, 10-3-1989; Ord. No. 99-033, § 2, 5-11-1999)

Sec. 94-253. Adoption of the Sarasota County concurrency management system regulations.

The Board of County Commissioners hereby adopts the Sarasota County Concurrency Management System Regulations, attached to Ordinance No. 99-033 as Exhibit A and made a part hereof by reference.

(Ord. No. 89-103, § 3, 10-3-1989; Ord. No. 99-033, § 3, 5-11-1999)

Editor's note: The Concurrency Management System Regulations are printed following this article.

Sec. 94-254. Interpretation and administration of the Sarasota County concurrency management system regulations.

(a) An applicant who has been denied a Development Order based upon these regulations may, within 15 days of such denial, file a petition for de novo review by the Board of County Commissioners. The Board shall render a decision on the petition in writing after notice and hearing.

(b) Pursuant to a denial by the Board of County Commissioners with respect to any Development Order for reasons other than consistency with the Sarasota County Comprehensive Plan, the applicant shall be permitted to submit a petition for mediation to the Board of County Commissioners within five working days from the date of denial by the Board of County Commissioners. In accordance with F.S. § 44.301, mediation shall be a voluntary, nonbinding, informal and non-adversarial method for conflict resolution subject to acceptance by all the parties. Upon the Board of County Commissioners' acceptance of a petition for mediation, the Board of County Commissioners shall authorize an attorney appointed by the Board of County Commissioners to participate in the mediation. Any mutually acceptable agreement among the parties shall be subject to final Board of County Commissioners' action.

(c) The language and provisions of this article and the Sarasota County concurrency management system

regulations shall be construed in pari materia with Sarasota County Ordinance No. 89-18 as the same may be amended from time to time, Sarasota County Ordinance No. 81-12, as amended, and Sarasota County Ordinance No. 75-38, as amended (Appendix A to this Code).

(Ord. No. 89-103, § 4, 10-3-1989; Ord. No. 99-033, § 4, 5-11-1999)

Sec. 94-255. No taking or abrogation of vested rights.

(a) Nothing in this article or the Sarasota County concurrency management system regulations shall be construed or applied to result in a temporary or permanent taking of private property without due process of law.

(b) Nothing contained herein shall be construed as affecting validly existing vested rights. It shall be the duty and responsibility of the person alleging vested rights to demonstrate affirmatively the legal requisites of vested rights. Rights shall vest based upon a determination by the Board of County Commissioners that the person alleging vested rights:

(1) Has relied in good faith;

(2) Has relied upon some act or omission of the government; and

(3) Has made such a substantial change in position or incurred such extensive obligations and expenses that it would be highly inequitable and unjust to destroy the rights he has acquired.

(c) The Board shall adopt administrative procedures to afford due process to persons alleging vested rights.

(d) The mere existence of zoning or other Development Order issued prior to the effective date of this article shall not be determined to vest rights.

(e) Nothing contained herein shall limit or modify the rights of any person to complete any development that has been authorized as a development of regional impact pursuant to F.S. ch. 380, or who has been issued a Final Local Development Order prior to the effective date of this article and development has commenced and is continuing in good faith, as provided by F.S. § 163.3167(8).

(Ord. No. 89-103, § 5, 10-3-1989; Ord. No. 99-033, § 5, 5-11-1999)

Sec. 94-256. Applicability.

The Sarasota County concurrency management system regulations shall be applicable throughout the unincorporated area of Sarasota County, Florida, and as otherwise provided by law.

(Ord. No. 89-103, § 6, 10-3-1989; Ord. No. 99-033, § 6, 5-11-1999)

Sec. 94-257. Effect on other ordinances and regulations.

The provisions of this article hereby supersede all prior regulations of Sarasota County related to the implementation of level of service standards for public facilities. Where this article conflicts with another County ordinance, the provisions of this article shall prevail to the extent of such conflict except as otherwise provided herein.

(Ord. No. 89-103, § 7, 10-3-1989; Ord. No. 99-033, § 7, 5-11-1999)

Sec. 94-258. Severability.

It is declared to be the intent of the Board of County Commissioners that, if any provision of this article is for any reason finally held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining provisions.

(Ord. No. 89-103, § 8, 10-3-1989; Ord. No. 99-033, § 8, 5-11-1999)

***Editor's note:** Printed herein are the Concurrency Management System Regulations, as attached to Ordinance No. 89-103 and as amended by Ordinance No. 99-033. Further amendments to the regulations are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the regulations as amended by Ordinance No. 99-033. The original section and subsection numbering has been preserved. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, headings and catchlines have been made uniform and the same system of capitalization, citation to state statutes, and expression of numbers in text as appears elsewhere in the Code of Ordinances has been used. Additions made for clarity are indicated by brackets.

A. Introduction.

On March 13, 1989, the Sarasota County Board of County Commissioners adopted the original Revised and Updated Sarasota County Comprehensive Plan, and has continued to revise and update it. The adoption of a comprehensive plan is required by the Local Government Comprehensive Planning and Land Development Regulation Act, F.S. Ch. 163, Pt. II, as amended (the Act), a primary objective of which is to effectively manage the problems associated with Florida's rapid population growth. A key element of the Act (F.S. § 163.3177(10)(h)) is the concept of "concurrency" expressed as follows:

"It is the intent of the Legislature that public facilities and services needed to support development shall be available concurrent with the impacts of such development."

The Act further requires that each local government adopt locally acceptable Levels of Service (LOS) for its various Public Facilities and then provide for the capital improvements necessary to maintain these Adopted Levels of Service. Adopted Levels of Service must be reasonably attainable and financially feasible as defined in F.S. § 163.3164(32).

In addition to introducing the general concept of concurrency, the Act compels local governments to comply with specific requirements related to concurrency. The Act (F.S. § 163.3202(2)(g)) prohibits local governments from issuing a Development Order or Permit which results in a reduction in the service for the affected Public Facilities below the Adopted Level of Service provided in the Comprehensive Plan of the local government. This section of the Act further requires that this prohibition be implemented through local land development regulations to be adopted no later than one year after the date the local government was required to submit its plan to the Florida Department of Community Affairs for review. The plan submittal date for Sarasota County was October 3, 1988. The Act (F.S. § 163.3177(3)(b)) also requires that the capital improvements element of the Comprehensive Plan shall be reviewed on an annual basis and modified as necessary.

The Act was further amended in 2005 to require adoption of public school concurrency requirements including: all local governments, unless subject to a waiver or exemption, to adopt consistent public school facilities elements in compliance with the requirements of F.S. § 163.3177(12); local governments and the school board must update the Interlocal Agreement for Public School Facility Planning consistent with the requirements of F.S. §§ 163.31777 and 163.3180(13)(g); local governments must adopt amendments to their capital improvements element setting forth a financially feasible public school capital facilities program; and local governments must amend their intergovernmental coordination element consistent with requirements of F.S. § 163.3177(6)(h)1. and 2.

Pursuant to the phased schedule adopted by the Department of Community Affairs, Sarasota County must adopt public school concurrency requirements by October 1, 2008. On May 31, 2007, the Interlocal Agreement for Public School Facility Planning was amended to adopt public school concurrency. Further, on May 13, 2008 the Sarasota County Board of County Commissioners amended the Comprehensive Plan, by creating a new Chapter 12 related to Public School Facilities; revising the Capital Improvements Chapter and Intergovernmental Coordination Chapter by amending Goals, Objectives and Policies implementing school concurrency. School concurrency will take effect on October 1, 2008, and will be implemented through amended concurrency management regulations that address public school Levels of Service and implement concurrency management regulations for public schools.

(Ord. No. 2008-103, § 3, 9-10-2008)

B. Purpose and intent.

The purpose of a concurrency management system is to provide the necessary regulatory mechanism for evaluating Development Orders to ensure that adequate Public Facilities are available concurrent with development impacts, thereby fulfilling the Legislature's intent regarding concurrency. An additional component of a concurrency management system is the establishment of a framework for determining Public Facility needs and providing a basis for meeting those needs through Capital Improvements planning.

By the adoption of the Comprehensive Plan, the Board of County Commissioners exercised its legislative authority by establishing acceptable level of service standards for roads, public transit, potable water, sanitary sewer, solid waste, drainage, parks and public schools.

The Capital Improvements Plan in the Comprehensive Plan identifies the schedule of capital facility projects and funding mechanisms necessary to maintain adequate Public Facilities at or above the adopted standards. An additional key element for establishing an effective framework for managing and directing development in a manner consistent with the Florida Legislature's concept of concurrency is contained in Future Land Use Policy 2.2.1, and for school concurrency is contained in Public School Facilities Objective 1.5 and 1.6, as follows:

"The approval of all Development Orders shall be subject to the availability of adequate Levels of Service for roads, public schools, public transit, potable water, sanitary sewer, solid waste, stormwater management facilities and parks, as defined in the Adopted Level of Service standards. All future Development shall be consistent with the detailed master plans for each drainage basin as they are adopted through the Basin Master Planning Program."

"Sarasota County will evaluate the adequacy of school capacity when it considers future land use changes, rezonings, and subdivision and site plans for residential development. This will be accomplished recognizing the School Board's statutory and constitutional responsibility to provide a uniform system of free and adequate public schools, and the County's authority for land use, including the authority to approve or deny petitions for future land use, rezoning, and subdivision and site plans for residential development that generate students and impact the Sarasota County school system."

"The County shall evaluate future land use changes, rezonings, and subdivision and site plan petitions for residential development to ensure adequate school capacity is available consistent with adopted level of service standards for public school concurrency."

The primary intent of these regulations is to provide Sarasota County with the tools to meet the statutory requirements. The implementation of this concurrency management system will serve as the principal mechanism for ensuring that growth is managed in a manner consistent with the provisions of the Sarasota Comprehensive Plan as well as a key monitoring device for measuring the effectiveness of the Comprehensive Plan and the programming of Capital Improvements.

(Ord. No. 2008-103, § 4, 9-10-2008)

C. Definitions.

Adjacency Review means the review as provided in F.7.f.(e) of these regulations of School Concurrency Service Areas contiguous to the School Concurrency Service Area in which the proposed Development is located.

Adopted Level of Service means the Level of Service (LOS) Policies adopted in the Comprehensive Plan as referenced in Policy 1.3.1 and Policy 1.5.1 of the Capital Improvements Chapter of the Comprehensive Plan. These Adopted Levels of Service are the regulatory standards to be used in evaluating development order requests for the purposes set forth in these regulations. The Adopted Level of Service for public school facilities have been jointly adopted by the Board of County Commissioners and the Sarasota County School Board in Section 4.2(b) of the Amended Interlocal Agreement for Public School Facility Planning.

Advanced Wastewater Treatment means wastewater treatment which will provide an effluent product that:

- a. Contains not more than the following concentrations, on a permitted annual basis:
 1. Biochemical oxygen demand (CBOD5) . . . 5 mg/l
 2. Suspended solids . . . 5 mg/l
 3. Total nitrogen, expressed as N . . . 3 mg/l
 4. Total phosphorus, expressed as P . . . 1 mg/l
- b. Has received high level disinfection, as defined by the FDEP.

In those waters where the concentrations of phosphorus have been shown not to be a limiting nutrient or a contaminant, the Florida Department of Environmental Protection (FDEP) may waive or alter the compliance levels of phosphorus until there is a demonstration that phosphorus is a limiting nutrient or a contaminant.

Apoxsee means the document Apoxsee, the Revised and Updated Sarasota County Comprehensive Plan, adopted by the Board of County Commissioners and filed with the Clerk of said Board pursuant to Sarasota County Ordinance No. 89-018, as amended.

Applicant means any person or his duly authorized representative who submits plans through any County agency for the purpose of obtaining approval thereof.

Arterial Road means a roadway providing service which is identified as an arterial, a major arterial or a minor arterial in Apoxsee, the Revised and Updated Sarasota County Comprehensive Plan.

Backlogged Public School Facilities means those public school facilities operating below the Adopted Level of Service and are not scheduled for major School Capacity improvement in Sarasota County's Five-Year Schedule of Capital Improvements which incorporates by reference the Sarasota School District Five-Year Capital Facilities Plan, dated September 11, 2007, as amended.

Backlogged Roadway Facilities means those roadways operating below the adopted standard which do not have prohibitive financial or environmental constraints but are not scheduled for major Capacity improvement in the Florida Department of Transportation's Five-Year Work Program or the Sarasota County's Five-Year Schedule of Capital Improvements (Table 10-3 in Apoxsee).

Capacity (Roads) means the maximum number of vehicles that can be accommodated by a given roadway during a specified time period under prevailing roadway, traffic and control conditions at that roadway's Adopted Level of Service.

Capacity (Schools) means Program Capacity for the applicable School Concurrency Service Area as programmed in the first three years of the Sarasota School District Five-Year Capital Facilities Plan.

Capacity, Available (Schools) means that portion of School Capacity at the Adopted Level of Service that remains available for the Development after the following are subtracted: Student Enrollment, Reserved Capacity, and those student stations reserved for Exempt Development.

Capacity, Encumbered (Schools) means a temporary allocation of School Capacity for 365 days during the pendency of the review for school concurrency of a Development Order for Residential Development.

Capacity, Reserved (Schools) means committed School Capacity allocated to a particular Development by a Certificate of School Concurrency.

Capacity, Used (Schools) means student enrollment as counted in the most recent official October count and as projected for the first three years of the Sarasota School District Five-Year Capital Facilities Plan.

Capital Improvement means physical assets constructed or purchased to provide, improve or replace a Public Facility and which are large scale and high in cost. The cost of a Capital Improvement is generally nonrecurring and may require multi-year financing. For the purposes of these regulations, physical assets which have been identified as existing or projected needs in Apoxsee shall be considered Capital Improvements.

Central County Solid Waste Complex means the proposed Sarasota County solid waste disposal site located east of I-75, north of Laurel Road.

Certificate of Occupancy (CO) means the official certification that a premises may be used or occupied pursuant to the State building codes.

Collector Road means a roadway providing service which is identified as a collector, a major collector, or a minor collector in Apoxsee, the Revised and Updated Sarasota County Comprehensive Plan.

Community Park. See *Park, Community.*

Comprehensive Plan means the document Apoxsee, the Revised and Updated Sarasota County Comprehensive Plan, (Apoxsee), adopted by the Board of County Commissioners and filed with the Clerk of said Board pursuant to Sarasota County Ordinance No. 89-018, as amended.

Concurrency Service Area (Schools) means the geographic area for each School Type in which Adopted Levels of Service is measured by the School District.

Concurrent Review means the combined review of a Preliminary Subdivision Plan and Final Construction Plan, or the combined review of a Site and Development Plan and Construction Engineering Plan as defined in the Sarasota County Land Development Regulations (Ordinance No. 81-012, as amended).

Constrained Roadway Facilities means those roadways that exhibit a Level of Service lower than the adopted standard which are not able to attain the adopted standard because prohibitive costs or environmental limitations prevent the construction of at least two additional through lanes.

Construction plans. See *Plan, Construction Engineering* and *Plan, Final Construction.*

Critical Area Planning Study means the study of specific areas of concern providing for an area-wide analysis and the development of additional guidelines to ensure compatibility with, and furthering of, the Primary Components

of Apoxsee, as the same may be amended from time to time.

Density means the number of residential dwelling units permitted per gross acre of land as determined by the Sarasota County Zoning Regulations.

Developer means any person, individual, partnership, association, syndicate, firm, corporation, trust or legal entity engaged in developing or subdividing land under the terms of the Sarasota County Land Development Regulations (Ordinance No. 81-012, as amended). The term "Developer" is intended to include the term "subdivider," even though the person involved in successive stages of a Development project may vary.

Development means a Subdivision of land or a site and Development as defined by the Sarasota County Land Development Regulations (Ordinance No. 81-012, as amended), a residential mobile home park, and any other construction, whether residential, commercial, industrial, office, professional, institutional, or recreational, except a one- or two-family residence on an individual lot, or lots.

Development Impact (Schools) means the number and type of public school students generated by the proposed Development calculated by multiplying the number of dwelling units by housing type by the student generation rate (SGR) for each School Type as determined by the Sarasota County School District.

Development of Regional Impact means a development within the definition of F.S. § 380.06.

Development Order means any action granting, denying, or granting with conditions, an application for a Development Permit.

Development Permit means any building permit, zoning permit, Preliminary Subdivision Plan, Subdivision or other plat approval, Site and Development Plan approval, rezoning, certification, Special Exception, variance, environmental permit or any other official action of Sarasota County or any other state or local government commission, board, agency, business center or official having the effect of permitting Development of land located within the geographic area subject to the provisions of the Sarasota County Land Development Regulations. Development shall include all activities set forth in F.S. § 380.04.

Enforceable Development Agreement means any agreement entered into by a local government with any person having a legal or equitable interest in real property located within its jurisdiction as provided for by F.S. §§ 163.3220--163.3243.

Englewood Water District (EWD) means the special district created by the Florida Legislature under Laws of Fla. ch. 59-931, providing for the operation and maintenance of water and wastewater services.

Equivalent Dwelling Unit (EDU) means the utilization of building space in such a manner as to have the potential of using 250 gallons of potable water per day or generating 200 gallons of sewage per day.

Exempt Development means any Development Order for Residential Development that qualifies for exemption pursuant to F.7.b.(3) of these regulations.

Final Development Order or *Final Local Development Order* means construction plan approval for residential Subdivision improvements, construction plan approval for Development requiring Site and Development Plans, or building permits.

Final Subdivision Plan. See *Plan, Final Subdivision.*

Land Development Regulations (LDR), Sarasota County means the regulation of the Development of land within the unincorporated area of Sarasota County as provided for in Sarasota County Ordinance No. 81-012, as amended.

Level of Service means an indicator of the extent or degree of service provided by, or proposed to be provided by, a facility based on and related to the operational characteristics of the facility.

Link (traffic) means a section of a roadway network defined by a node at each end.

Lot includes tract or parcel and means the least fractional part of subdivided land having limited fixed boundaries, and an assigned number, letter, or other name through which it may be identified.

Major Stormwater Management Facilities means those drainage systems designated in the Sarasota County Land Development Regulations.

Metropolitan Park. See *Park, Metropolitan.*

Neighborhood Park. See *Park, Neighborhood.*

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

Park, Metropolitan means a park Development to serve several communities, population centers, or large portions of the County.

Park, Neighborhood means a park which serves the population of a neighborhood and which is generally accessible by bicycle or pedestrian ways.

Park, Regional means a park which is designed to serve two or more communities.

Park, Special means all parks that cannot be categorized as a Community, Metropolitan, Neighborhood, or Regional Park.

Plan, Construction Engineering means those plans and specifications, prepared with applicable documents for improvements such as stormwater management, excavation and fill, bulkheads, sidewalks, paving and drainage plans. Said plan must conform to an approved Site and Development Plan.

Plan, Final Construction means those plans and specifications prepared with applicable documents for improvements such as stormwater management, excavation and fill, bulkheads, sidewalks, paving and drainage plans. Said plan must conform to an approved Preliminary Subdivision Plan.

Plan, Final Subdivision includes the plat to be recorded; final engineering plans, specifications and calculations; certification of improvements, as-built drawings, or performance guarantee; and other required certifications, bonds, agreements, approvals, and materials for a Development phase or the entirety of a parcel of land, meeting the requirements of the Zoning Regulations and the Land Development Regulations.

Plan, Preliminary Subdivision includes the site plan, boundary survey, tree location survey or aerial photographic overlay; preliminary engineering plans, specifications and calculations; and other necessary materials for a Development phase or the entirety, meeting the requirements of the Zoning Regulations and Land Development Regulations.

Plan, Site and Development means a map or plan upon which is delineated Development activities and other such information as may be required to depict all such activities and showing how it will impact the site and how such Development is in compliance with all pertinent County ordinances, resolutions, and policies. Specifically, that plan approved by the Site and Development Plan approval process of [the] Land Development Regulations.

Platted Lot of Record means (1) a Lot which is part of a Subdivision which has been recorded in the office of the Clerk of the Circuit Court of Sarasota County prior to the effective date of these regulations or (2) a Lot or parcel described by metes and bounds, the description of which has been so recorded on or before the effective date of these regulations.

Preliminary Subdivision Plan. See *Plan, Preliminary Subdivision*.

Program Capacity means the School District derived capacity of a public school facility taking into account class size reduction, actual usage of classrooms, scheduling and the district composition of special students. Program capacity is recomputed each year and reported annually to reflect facility, student and curriculum changes.

Proportionate Share Mitigation (Schools) means an improvement or contribution identified in a binding and enforceable development agreement between an applicant, the Sarasota County School Board and the Board of County Commissioners to provide compensation or other accommodation for the deficit in public school facilities created through the Residential Development of the property as mandated in F.S. § 163.3180(13)(e).

Public Facilities means major capital improvements, including transportation, public schools, sanitary sewer, solid waste, drainage, potable water, parks and recreational facilities and services.

Regional Park. See *Park, Regional*.

Residential Development means any Development Order that is comprised of Residential Units, in whole or in part, for nontransient human habitation, and includes single-family and multifamily housing, regardless of whether the approval procedure for such development is considered commercial or residential.

Residential Unit means any occupied structure or part thereof, which is designated exclusively for human habitation and meets all applicable government requirements for residential use on a continuous basis; i.e., having hot and cold running water and adequate facilities for heating, cooking, sleeping, and the sanitary elimination of wastes. Hotels, motels, and temporary lodging facilities are specifically excluded.

Rezoning Petition means a request to amend the Official Zoning Atlas for a specific parcel of land meeting the requirements of the Sarasota County Zoning Regulations.

Sanitary Landfill means the places set aside by the Board of County Commissioners for the reception of solid waste or sludge.

Sanitary Sewerage System, Central means a system of pipes, pumps, tanks, treatment plants, disposal systems, effluent lines and all other appurtenances with a treatment capacity of 2,000 gallons per day or more.

School Impact Analysis means the document required to be prepared and submitted as a requirement for review of a Development Order application.

School Type means the category of public school based on instruction level or type of instruction, whether elementary school grades, middle school grades, high school grades or special purpose schools.

Service Volume (Roads). See *Capacity (Roads)*.

Site and Development Plan. See *Plan, Site and Development*.

Solid Waste Franchise means the written authority granted by the Board of County Commissioners to a person or entity to engage in the collection and disposal of solid waste.

Special Exception means a use that would not be appropriate generally or without restriction throughout a zoning division or district but which, if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or the general welfare. Such uses may be permissible in a zoning classification or district upon the granting of Special Exception, meeting the requirements of the Sarasota County Zoning Regulations.

Special Park. See *Park, Special*.

Student Attendance Zone means the geographic area where students who reside within such area must attend a designated public school.

Subdivision means the division of a parcel of land (whether improved or unimproved) into Lots as provided for in the Sarasota County Land Development Regulations.

Targeted Business for Economic Development shall mean an export-oriented industry eligible for road impact fee mitigation as listed in Section 70-137(1)a. and complying with the employment and wage criteria of Section 70-137 (1)c., Chapter 70, Article IV of the Sarasota County Code, as amended from time to time.

Traffic Analysis Zone (TAZ) means a portion of a transportation study area delineated geographically for land use and traffic analysis purposes incorporating household and socioeconomic data.

Volume (Traffic) means the number of vehicles to pass a predetermined location during a specified period of time.

Water System, Central means a system for the production, treatment and/or distribution (including wells, new water lines, reject/disposal system if applicable, pumps, treatment plants, distribution pipes, and other appurtenances) of water serving nine or more Equivalent Dwelling Units. (See County Ordinance [No.] 83-048, as may be amended.)

Zoning Regulations, Sarasota County means Sarasota County Ordinance No. 75-038 [Appendix A to this Code], as may be amended, which controls and regulates zoning for the unincorporated portion of Sarasota County.

(Ord. No. 2004-084, § 2, 9-15-2004; Ord. No. 2008-103, § 5, 9-10-2008)

D. Development review system.

1. For the purpose of meeting the provisions of these regulations, a Development Order shall be considered to be any action required by Apoxsee, the Sarasota County Zoning Regulations, the Sarasota County Land Development Regulations and other applicable ordinances, for the approval of the following:

- a. Developments of regional impact;
- b. Critical Area Planning Studies;
- c. Rezoning Petitions;
- d. Special Exceptions;
- e. Preliminary Subdivision Plans;
- f. Final Subdivision Plans (including construction or engineering plans and specifications and plat approval);
- g. Site and Development Plans;
- h. Construction plans for Development requiring Site and Development Plan approval; and

- i. Building permits.
2. The designation of a single agency (e.g., County Business Center or Division) for coordinating each level of the Development review process is necessary to ensure that every Development Permit application is reviewed in accordance with these regulations prior to the issuance of a Development Order. The coordinating agencies and their respective responsibilities under this process are as follows:
 - a. The Growth Management Business Center shall be responsible for coordinating the review of Developments of regional impact, Critical Area Planning Studies and Rezoning and Special Exception Petitions;
 - b. The Development Services Business Center shall be responsible for coordinating the review of Preliminary Subdivision Plan applications and Site and Development Plan applications;
 - c. The Development Services Business Center shall be responsible for coordinating the review of construction or engineering plans and specifications, and Final Subdivision Plan applications; and
 - d. The Development Services Business Center shall be responsible for coordinating the review of building permit applications.
3. The following business centers shall be responsible for evaluating the adequacy of existing and planned facilities with regard to proposed Development Orders:
 - a. The Environmental Services Business Center shall evaluate solid waste Levels of Service;
 - b. The Transportation Planning Division of the Public Works Business Center shall evaluate roadway Levels of Service;
 - c. The Stormwater Management Division of the Public Works Business Center shall evaluate drainage Levels of Service;
 - d. The Environmental Services Business Center shall evaluate potable water Levels of Service;
 - e. The Environmental Services Business Center shall evaluate sanitary sewer Levels of Service; and
 - f. The Community Services Business Center shall evaluate park Levels of Service.
 - g. The Planning and Development Services Business Center in coordination with the Sarasota County School District shall evaluate public school Levels of Service.
4. The evaluating agencies shall provide the coordinating agencies a letter or other instrument for each proposed development order which indicates the level of service of facilities which will be impacted by the proposed development, the extent of the impact generated by the proposed development, and whether those facilities have sufficient capacity to serve the development at, or above, adopted levels of service. For public schools, the Sarasota County School District shall provide the evaluating agency a School Concurrency Recommendation which will serve as the basis for the evaluating agencies letter on the availability of public school facilities for the proposed Development Order.
5. The coordinating agencies will be responsible for compiling the Level of Service reviews into a concurrency report for each Development Order. Each concurrency report will document:
 - a. The conditions related to land uses and Public Facility availability upon which the reviews were based;
 - b. The specific facilities impacted by the proposed Development;
 - c. The extent of the impact generated on those facilities by the proposed Development; and
 - d. Conditions or stipulations regarding the timing and phasing of the Development or provision of facility improvements necessary to ensure that adequate facilities will be available concurrent with the impact of the Development.
 - e. Conditions or stipulations regarding Proportionate Share Mitigation.
6. For each Development Order reviewed for concurrency, the coordinating agencies will be responsible for monitoring and enforcing the conditions and stipulations contained in all concurrency reports that were completed during earlier steps of the Development review process which are related

to that Development Order. This will be done in order to ensure that consistent concurrency review procedures are maintained and that unnecessary duplication is avoided.

(Ord. No. 2008-103, §§ 6--8, 9-10-2008)

E. Determination of concurrency, generally.

1. Consistent with the Comprehensive Plan Future Land Use Policy 2.2.1., and Public School Facilities Objectives 1.5 and 1.6, the approval of development orders shall be contingent upon a finding that adequate public facilities have been determined to be available, consistent with their adopted levels of service and concurrent with the impact of the proposed development. Such a determination of concurrency made during the review of a development order which is not a final development order does not guarantee that there will automatically be a finding of concurrency at subsequent steps in the process for a given property or a proposed development. However, a finding of concurrency made at one stage of the development review process may be used as a basis for a finding of concurrency during the review of a development order at a later stage in the process provided that:

- a. The previously approved Development Order remains in effect, as determined by the time limit imposed upon the Development by the applicable section of the Sarasota County Zoning Regulations, the Sarasota County Land Development Regulations or these regulations;
- b. The impact of the proposed Development under consideration was fully taken into account during the concurrency review and in the finding of concurrency associated with the previously approved Development Order;
- c. The conditions related to land uses and facility availability upon which the previous finding was based have not changed; and
- d. All conditions or stipulations regarding the timing or phasing of the Development or the provision of facility improvement by either the Developer or the County imposed on the previously approved Development Order have been satisfied.

2. In order to ensure that the capacity of various Public Facilities is available concurrent with the impact of proposed Development, the concurrency review for each type of Development Order identified in Section D.1 of these regulations shall be based upon the following criteria:

- a. A finding of concurrency for Developments of regional impact shall be determined pursuant to the provisions of F.S. § 380.06 and will be based on an evaluation of those phases of the Development which are scheduled to be completed within five years from the date of issuance of the local government Development Order. Any local government Development Order issued pursuant to F.S. § 380.06(15) shall include the requirement that annual reports on Developments of regional impact required by F.S. § 380.06(18) provide, at a minimum, sufficient data to analyze and monitor the impact upon Public Facilities from Development which has occurred pursuant to the local government Development Order, and to update the determination of impact of future approved Development.

Notwithstanding the above paragraph, a finding of concurrency may be established pursuant to a concurrency extension agreement, which if approved by the Board of County Commissioners could extend a finding of concurrency for up to ten years. The Board of County Commissioners shall have the authority to consider a concurrency extension agreement if the owner/Developer meets the following criteria:

- (1) The owner/Developer shall demonstrate, at the time of request, that a finding of concurrency has been made for the proposed Development in accordance with the provisions of this ordinance;
- (2) The proposed Development shall be located within a major employment center (MEC) or major employment center/interstate regional office park (MEC/IROP) as designated in the future land use map of The Sarasota County Comprehensive Plan, as amended, and as further defined by adopted Zoning Regulations;
- (3) The proposed Development is identified as a "targeted industry company." For the purposes of this section, targeted industry company shall mean and include a business or industry classified in one of the following categories: social, education, and survey research; software development; integrated computer systems design; engineering services; computer programming; management and business consulting; data processing services; commercial art and graphics; management services; advertising agencies; accounting firms; instruments manufacturing; book and periodicals publishing;

medical and dental laboratories; drug manufacturing; company headquarters and corporate data centers; insurance carriers; electronic equipment manufacturing; and theatrical production;

(4) The average wage earned by employees of the targeted industry company shall equal or exceed the current annual average wage for all industries located in Sarasota County, as published by the U.S. Department of Labor, Bureau of Labor Statistics, in the annual ES-202 report of employment and wages covered by the Florida Unemployment Compensation Law;

(5) The targeted industry company shall retain and/or create a minimum of 500 bona fide, full-time jobs at the proposed Development, where no less than 50 percent are employed within the first two years of Certificate of Occupancy issuance;

(6) No less than 50 percent of the Development shall be completed within the first two years of the effective date of the concurrency extension agreement;

(7) The estimated total road impact fees due by the proposed Development, pursuant to Ordinance No. 89-097, as amended, equal or exceed \$500,000.00, excluding any service fees;

(8) The owner/Developer will not apply, request or receive any road impact fee mitigation pursuant to Ordinance No. 95-054, as amended;

(9) The owner/Developer will not apply for and will waive any impact fee credits for any Public Facilities constructed as part of the concurrency extension agreement.

Owner/Developer shall mean and include all individuals and/or legal entities with ownership or possession of the land and on-site improvements identified in the concurrency extension agreement.

The Board of County Commissioners shall have the authority to impose other restrictions and safeguards as may be necessary and appropriate to protect the public welfare.

b. Critical Area Planning Studies shall be reviewed pursuant to the guidelines adopted by Sarasota County Ordinance No. 84-57, as the same may be amended or revised. Such reviews will utilize land use projections consistent with the Future Land Use Plan and planned facility improvements contained in the "Five-Year Schedule of Capital Improvements", Table 10-3 in the Comprehensive Plan, as it may be amended from time to time, and other such capital improvements plans duly adopted by facilities providers. A finding of concurrency resulting from such a review shall be used for facilities planning purposes and shall not be construed to guarantee the availability of adequate public facilities in the future.

c. Rezoning Petitions shall be reviewed to evaluate the impact that the proposed Development would have on existing conditions consistent with the requirements for determining available facility capacity for Final Development Orders (Section E.3. of these regulations). A finding of concurrency resulting from this review may only be used as a basis for a finding of concurrency during the review of a Development Order at a later stage in the Development review process (see Section E.1. above) for a period of two years after approval of the Rezoning Petition by the Board of County Commissioners. In addition, and as part of the concurrency review for a Rezoning Petition, conditions projected five years into the future including planned facility improvements contained in the Five-Year Schedule of Capital Improvements, Table 10-3 in the Comprehensive Plan, as it may be amended from time to time, and other such Capital Improvement plans duly adopted by facilities providers, shall be reviewed for the purpose of placing conditions on the Development Order relating to phasing and timing (see Section E.1.d. above). Rezoning Petitions which could result in a range of potential impacts shall be reviewed as if the highest impact were being proposed, or the Development Order shall be conditioned so as to restrict the use of the subject parcel to a level of impact consistent with a positive finding of concurrency. A finding of concurrency resulting from the review of a Rezoning Petition shall not be construed to guarantee the availability of adequate facilities, absent an Enforceable Development Agreement pursuant to F.S. § 163.3220 et seq.

d. Special Exception applications shall be reviewed based on conditions consistent with the requirements for determining available facility capacity for Final Development Orders (Section E.3. of these regulations).

e. Preliminary Subdivision Plans, Final Subdivision Plans, Site and Development Plans, Final

Construction Plans, Construction Engineering Plans and building permit applications may be reviewed utilizing a previously determined finding of concurrency, subject to the provisions of Section E.1. of these regulations. However, a Final Development Order shall not be issued unless such Final Development Order is supported by a finding that all applicable provisions of these regulations have been met and satisfied. All applications for a Final Development Order will be subject to review according to the provisions of Section E.3. of these regulations, absent a previous finding of concurrency consistent with the provisions of Section E.1. [of these regulations].

f. A finding of concurrency made as part of the review of Final Construction Plans or Construction Engineering Plans shall be based on the impact that the final build-out of the proposed Development would have on the availability of Public Facilities, consistent with the provisions of Sections E.1, E.3 and F. of these regulations. In the case of a Final Construction Plan, such a finding of concurrency shall be used as the finding of concurrency for building permit applications for the Subdivision, effective upon approval of the Final Subdivision Plan by the Board of County Commissioners. In the case of a Construction Engineering Plan requiring a Site and Development Plan, such a finding of concurrency shall similarly be used as a finding of concurrency for building permit applications for the proposed Development, provided that substantial construction work has been accomplished within two years after the approval of the Construction Engineering Plan. "Substantial construction work" means the commencement and continuous prosecution of construction of required improvements to completion. Conditions pertaining to the phasing and timing of a proposed Development may be included in a finding of concurrency for the Development.

In the case of an approved Construction Engineering Plan ("Initial Plan") requiring a Site and Development Plan, a finding of transportation concurrency shall continue to be used as a finding of transportation concurrency for amended, modified, or newly submitted Construction Engineering Plans for the same property provided that:

- (1) The amended, modified, or newly submitted plan is submitted within four years of the approval of the Initial Plan, or the amended, modified, or newly submitted plan is submitted within two years of completion of substantial construction work; and
- (2) The net new p.m. peak hour trip generation was fully taken into account during the concurrency review and in the finding of concurrency associated with the Initial Plan; and
- (3) Any changes to access locations are determined not to increase the net new pm [p.m.] peak hour trips assigned to each significantly impacted roadway.

g. Building permit applications for single-family residences on a Platted Lot of Record, recorded on or before the effective date of these regulations, shall be reviewed based on the presumption that fully adequate facilities are available consistent with the Adopted Level of Service standards, with the exception of potable water and sanitary sewer.

3. For [the] purpose of evaluating Development Orders which are considered to be Final Development Orders, the available capacity of a facility shall be determined by:

a. Adding together:

- (1) The total capacity of existing facilities operating at the Adopted Level of Service; and
- (2) The total capacity of new facilities, if any, that will become available concurrent with impacts of the Development. The capacity of new facilities may be counted if one or more of the following is demonstrated:
 - (a) Construction of the new facilities is underway at the time the application for the Development Order is being evaluated;
 - (b) The new facilities are the subject of a binding executed contract for the construction of the facilities or the provision of services at the time the application for the Development Order is being evaluated;
 - (c) The new facilities have been included in the adopted Sarasota County capital budget for the fiscal year in effect at the time the application for the Development Order is being evaluated;
 - (d) The new facilities are guaranteed in an Enforceable Development

Agreement for the Development under consideration. An Enforceable Development Agreement may include, but is not limited to, Development agreements pursuant to F.S. § 163.3220 et seq., or an agreement or Development Order pursuant to F.S. ch. 380. Such facilities shall be consistent with the Capital Improvements chapter of the Sarasota County Comprehensive Plan, as it may be amended from time to time; or

(e) The new facilities are guaranteed in an Enforceable Development Agreement for a Development different than the one under consideration, provided that the new facilities are the subject of a binding executed contract for the construction of the facilities with a construction start date during the fiscal year in effect at the time the application for the Development Order being evaluated.

b. Subtracting from the total capacity the sum of:

- (1) The demand for the services or facilities created by existing Development;
- (2) The demand for the services or facilities created by the anticipated completion of other approved Developments for which Final Development Orders have been approved; and
- (3) The demand for the services or facilities created by the anticipated completion of the proposed Development under consideration for concurrency determination.

4. Data requirements.

a. Development submissions. All applications for Development Orders shall provide sufficient information to determine the impact of such Development consistent with these concurrency evaluation procedures. Such information shall include, but not be limited to:

- (1) Total number and type of dwelling units for residential Development applications;
- (2) Identification of type and intensity of nonresidential use, where appropriate, at a level of detail consistent with the type of Development application;
- (3) Location of the proposed Development and identification of facilities impacted by Development pursuant to the provisions of Section F. of these regulations; and
- (4) Identification of project phasing, where applicable.

b. Concurrency data base. The County shall develop and maintain an inventory of existing land uses and projected land uses, based upon Development Order approvals, in order to monitor the impact of Development Order approvals on the availability of Public Facilities. This data will be updated annually and will be designed to provide incremental data pertaining to existing, approved and planned Development, as follows:

- (1) *One-year--* The Public Facility impact of Development existing at the time of formation or update of the data base, plus the total impact of approved Final Development Orders;
- (2) *Five-year--* The "one-year" data plus the public facility impact of development projected to occur within the five-year period covered by the five-year schedule of capital improvements or for public schools within the ten-year period covered by the long term schedule of capital improvements, consistent with the Comprehensive Plan including, but not limited to, phased development orders which have been approved; and
- (3) *Twenty-year--* The public facility impacts of development projected to occur within the 20-year period, consistent with the Comprehensive Plan.

c. The Planning and Development Services Business Center will be responsible for developing the County's Concurrency Data Base. The Concurrency Data Base shall be designed to function as a component of a unified data base designed to provide support to appropriate County departments engaged in development order and permit review and monitoring, and in the planning and/or provision of public facilities. For public schools, the School District in coordination with the County will be responsible for developing and maintaining the Concurrency Data Base.

F. Determination of concurrency, specifically.

1. *Transportation.*

a. Level of Service standards. The following policies of the Apoxsee Traffic Circulation Plan shall serve as the minimum criteria for determining that adequate Capacity or service Volume exists on Arterial and Collector Roads which are impacted by a proposed Development and which are maintained by either the County or the Florida Department of Transportation:

(1) *Traffic Circulation Policy 1.3.1.:* Sarasota County shall adopt and maintain a Level of Service (LOS) standard of "C" peak-hour, based on a 100th hour design criteria (hereafter referred to as "LOS "C""), for all County maintained arterial and collectors except those roadways which have been designated as either constrained or backlogged facilities. Constrained County facilities are defined as roadways operating below LOS "C" which are not capable of attaining LOS "C" because prohibitive costs or environmental limitations prevent the construction of at least two additional through lanes. Backlogged County facilities are defined as roadways operating below the LOS "C" standard which do not have prohibitive financial or environmental constraints but are not scheduled for major Capacity improvements in the County's Five-Year Schedule of Capital Improvements (Table 10-3 in the Capital Improvements chapter). For the purposes of implementing this policy, the designated constrained and backlogged County facilities are listed in Table 6-5. (Table 6-5 of Apoxsee is included in Appendix A of these regulations for reference.)

(2) *Traffic Circulation Policy 1.3.2.:* Sarasota County shall adopt the same operating Level of Service standards, as adopted by the Florida Department of Transportation in Standards #525-000-005-a, with an effective date of November 28, 1988, for all State-maintained roadways affected by land use decisions in the unincorporated areas of Sarasota County. Florida Department of Transportation Standards #525-000-005-a is provided for reference in Appendix E, Section 4 (of Apoxsee). Any future changes in the State operating Level of Service standards by the Florida Department of Transportation will require consideration of a Comprehensive Plan amendment to ensure continued consistency with State standards. For the purpose of implementing this policy, the designated constrained and backlogged State facilities are listed in Table 6-5. (Appendix E, Section 4 of Apoxsee is included in Appendix A of these regulations.)

(3) *Traffic Circulation Policy 1.3.3.:* The review and approval of Development Orders shall ensure that such approval will not degrade the LOS of those constrained and backlogged roadways specified in Table 6-5, below that which exists on the date this plan takes effect. For those roadways experiencing a Level of Service "F" on the effective date of the plan, degradation of LOS shall be determined by specific operating thresholds, such as an average travel speed or Volume/Capacity ratios which will be adopted by ordinance as part of the County's concurrency management system.

b. Proposed Development seeking the issuance of a Development Order shall be evaluated in terms of potential Development generated traffic impacts on those roadways serving said Development. A determination shall be made as to whether or not sufficient service Volume is available to support said Development at or above the Adopted Level of Service for those roadways. Such a determination shall be made through the utilization of the following information produced by the Sarasota County Public Works Business Center:

(1) An inventory of all Arterial and Collector Roads, including at a minimum, the following data for each road:

(a) Existing service Volume based on Adopted Level of Service, the existing Level of Service designation, and existing service Volume reserve;

(b) Additional service Volume to be added through the following:

(i) The construction/implementation of roadway improvements for which a funding commitment has been included in the County capital budget for the current fiscal year; or

(ii) Roadway improvements which are guaranteed in an Enforceable Development Agreement where the necessary roadway improvement(s) are required to be completed during the current fiscal year; or

(iii) Roadway improvements for which a funding commitment has been included in the first three years of the County's Five-Year Schedule of Capital Improvements for Targeted Business for Economic Development within Major Employment Centers and Major Employment Center/Interstate Regional Office Park as designated on the Future Land Use Map; provided that:

a. The estimated date of commencement of actual construction and the estimated date of project completion are provided in the Capital Improvements Chapter of the Sarasota County Comprehensive Plan; and

b. A comprehensive plan amendment is required to eliminate, defer or delay construction of any roadway improvement which was relied upon in issuing a development order under this subparagraph (iii), which is needed to maintain the adopted level of service and which is listed in the first three years of the Five-Year Schedule of Capital Improvements.

(iv) Roadway improvements for which a funding commitment has been included in the County's Five-Year Schedule of Capital Improvements and for which a proportionate fair-share payment for the development under consideration has been made pursuant to a Proportionate Fair-Share Agreement prepared and executed in accordance with Section F.1.d. of these regulations.

(c) Existing daily and peak-hour (design hour) Traffic Volume;

(d) Traffic volume projected to be added by approved Development having a Final Development Order or binding Development agreement which consigns a portion of the available service Volume reserve for said Development; and

(e) The available service Volume reserve equal to the sum of existing (a) and added (b) service Volume less the sum of existing traffic (c) and projected Traffic Volume consignments (d).

(2) A trip distribution table which will be used to identify those roadway segments which can be expected to be significantly impacted by Development generated traffic for any given Development, and the percentage of total generated trips each roadway segment can be expected to receive, where significant impact is defined as collector and arterial roadway segments with any of the following characteristics:

(a) Carrying development traffic equal to or greater than five percent of the segment's maximum service volume at Level of Service "C"; or

(b) An initial arterial or collector segment carrying Development traffic, access either directly or through any intervening private or local roads.

(3) An inventory of those arterial and collector roadway segments identified in Apoxsee as being "backlogged" or "constrained" containing the following data:

(a) Existing service Volume based on Adopted Level of Service, and, existing Level of Service designation;

(b) Existing daily and peak-hour (design hour) Traffic Volume; and

(c) Existing average travel speed.

(4) Information regarding the proposed Development for which issuance of a Development Order has been requested shall be provided by the Developer, subject to verification by the County Public Works Business Center, and shall contain at a minimum:

(a) Project location;

(b) Type and quantity of proposed land use(s) (i.e., number of dwelling units, square footage, etc.);

(c) Project phasing; and

(d) Expected trip generation by trip type (primary, diverted and captured) estimates for the proposed land use(s) by project phase. Trip generation shall be determined in accordance with the latest available Institute of Transportation Engineers (ITE) Trip Generation Manual, or with locally derived trip generation rates based on studies performed, or approved and verified, by the County Public Works Business Center.

c. Concurrency analysis. The County Public Works Business Center shall be the agency responsible for determining whether adequate service Volume is available to support expected Development generated traffic from a given proposed Development such that a finding of concurrency may be rendered. Using the information inventoried pursuant to Section F.1.c. above, expected Development generated traffic shall be assigned to those roadway segments identified as receiving a significant portion of Development generated traffic pursuant to Section F.1.b(2) above. A finding of concurrency shall be made for a given proposed Development only in the event that expected Development generated traffic for the proposed Development (identified pursuant to Section F.1.c(4)(d) above) is less than or equal to the available service Volume reserve on each significantly impacted roadway segment (identified pursuant to Sections F.1.b(1)(e) and F.1.b(2) above), or in the case of backlogged and constrained roadways, does not result in a further degradation of the Adopted Level of Service for that roadway. Further, in the case of designated backlogged or constrained roadways operating at a Level of Service "F," the Adopted Level of Service shall be defined as the average peak-hour travel speed existing at the time the Development Order application is made, where peak-hour shall be as stated in Section F.1.a.(1) and F.1.a.(2) above. If the data requirements described in Sections F.1.b(1) through F.1.b(3) are not available in their entirety at the time the Development Order is being considered, the required data may be provided by the Developer subject to verification by the County Public Works Business Center.

In the event that Development generated traffic assigned to one or more of the significantly impacted roadway segments exceeds the available service Volume reserve, the report issued by the County Public Works Business Center to the appropriate coordinating agency shall identify and discuss the specific circumstances surrounding each occurrence.

d. Proportionate fair-share mitigation.

(1) *General Requirements.* A transportation improvement needed to mitigate a development's impacts on a significantly impacted roadway may be found to have available facility capacity if an applicant makes a proportionate fair-share contribution, pursuant to the following requirements:

(a) The proposed development is otherwise consistent with the comprehensive plan and applicable land development regulations.

(b) The adopted Five-Year Schedule of Capital Improvements includes all required funding for a transportation improvement that upon completion will provide additional service volume needed for the proposed development to be found concurrent with respect to its impacts on the roadway with the programmed improvement.

(c) The proposed development will not create an unsafe condition on the transportation network.

(2) *Intergovernmental Coordination.* Consistent with the intergovernmental coordination policies of the Sarasota County Comprehensive Plan, the County shall coordinate a proposed proportionate fair-share mitigation agreement with any affected jurisdictions regarding mitigation to impacted facilities not under the jurisdiction of the County.

(3) *Application Process.*

(a) At the time of review of an application for a Final Development Order, Land Development Services staff shall notify the applicant if there are transportation improvements satisfying the requirements of Section F.1.d(1). The notification shall be provided in writing and shall indicate that the applicant has the opportunity to satisfy transportation concurrency requirements through a Proportionate Fair-Share Agreement.

(b) Prior to submitting an application to enter into a Proportionate Fair-Share Agreement, a pre-application meeting shall be held to discuss eligibility, application submittal requirements, potential mitigation options, and related issues. If the impacted facility is on the Strategic Intermodal System, the Florida Department of Transportation shall be notified and invited to participate in the pre-application meeting. If the impacted facility is under the jurisdiction of another agency, representatives from the maintaining agency shall be notified and invited to participate in the pre-application meeting.

(c) Eligible applicants shall submit an application to County Land Development Services that includes the following:

- (i) Name, address and phone number of owner(s), developer, and agent;
- (ii) Property location, including parcel identification number(s);
- (iii) Legal description and survey of property;
- (iv) Project description, including type, intensity and amount of development;
- (v) Phasing schedule, if applicable;
- (vi) Description of requested proportionate fair-share mitigation method(s); and
- (vii) Copy of the traffic impact analysis.

(d) The County shall review the application and certify that the application is sufficient and complete within ten business days. If an application is determined to be insufficient, incomplete, or inconsistent with the General Requirements of Section F.1.d(1) then the applicant will be notified in writing of the reasons for such deficiencies within ten business days of submittal of the application. If such deficiencies are not remedied by the applicant within 30 days of receipt of the written notification, then the application will be deemed abandoned. Land Development Services staff may, at their discretion, grant an extension not to exceed 60 days to address such deficiencies, provided the applicant has shown good cause for the extension and has taken reasonable steps to effect a cure.

(e) Pursuant to F.S. § 163.3180(16)(e), proposed proportionate fair-share mitigation for development impacts to facilities on the Strategic Intermodal System require the concurrence of the Florida Department of Transportation. In the event the facility proposed for proportionate fair share payment is a Strategic Intermodal System facility, the applicant shall submit evidence of an agreement between the applicant and the Florida Department of Transportation for inclusion in the proportionate fair-share agreement.

(f) When an application is deemed sufficient, complete, and eligible, the applicant shall be advised in writing and a proposed proportionate fair-share obligation and binding agreement will be prepared by the applicant under the direction of County and delivered to the appropriate parties for review, including a copy to the Florida Department of Transportation for any proposed proportionate fair-share mitigation on a Strategic Intermodal System facility. The proposed agreement shall be provided no later than 60 days from the date at which the applicant received the notification of a sufficient application and no fewer than 21 days prior to the Board meeting where the agreement will be considered.

(g) The County shall notify the applicant regarding the date of the Board meeting at which the agreement will be considered for final approval. No proportionate fair-share agreement will be effective until approved by the Board.

(4) *Determining Proportionate Fair-Share Obligations.* One or more roadway improvements satisfying the requirements of Section F.1.d(1) may be the subject of the proposed Proportionate Fair-Share Agreement. The obligations for each subject roadway improvement shall be as follows:

- (a) Proportionate fair-share mitigation for concurrency impacts may include, without limitation, separately or collectively, private funds, contributions of land,

and construction and contribution of facilities.

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

(c) The formula used to calculate an applicant's proportionate fair-share obligation for an impact roadway shall be as follows:

$$\text{Proportionate Fair-Share} = (\text{Development Trips}) / (\text{SV Increase}) \times \text{Cost}$$

Where:

TABLE INSET:

Development Trips =	Those trips from the stage or phase of development under review that are assigned to the impacted roadway segment to be improved and for which the proportionate fair-share payment is being made;
SV Increase =	Service Volume Increase provided by the eligible improvement to the impacted roadway segment;
Cost =	The cost of the improvement for which the proportionate fair share payment is being made. The Cost shall include all improvements and associated costs, such as design, right-of-way acquisition, planning, engineering, inspection, and physical development costs directly associated with construction at the anticipated cost in the year it will be incurred.

(d) For the purposes of determining proportionate fair-share obligations, the County shall determine improvement costs based on the actual cost of the improvement as obtained from the applicable local Capital Improvement Program, Sarasota/Manatee Metropolitan Planning Organization Transportation Improvement Program, or Florida Department of Transportation Work Program.

(e) The County may accept right-of-way dedication for the proportionate fair-share payment. If the County accepts a right-of-way dedication for the proportionate fair-share payment, dedication of the non-site related right-of-way shall be valued on the date of the dedication at 115 percent of the most recent assessed value by the County property appraiser or, at the option of the applicant, at 100 percent of the fair market value established by an independent appraisal approved by the County and at no expense to the County. The applicant shall supply a drawing and legal description of the land and a certificate of title or title search of the land to the County at no expense to the County. If the estimated value of the right-of-way dedication proposed by the applicant is less than the total proportionate fair-share obligation for that development, the applicant shall also pay the balance of the proportionate fair-share payment. Prior to purchase or acquisition of any real property or acceptance of dedication of real property intended to be used for the proportionate fair-share of an improvement funded in part or in whole with State or Federal funds, the applicant shall contact the Florida Department of Transportation to determine compliance with Federal laws and regulations.

(f) The County may accept a developer-constructed improvement project as the proportionate fair-share payment. If the County accepts an improvement project proposed by the applicant, the value of the improvement shall be established by a County analysis of costs by cross section type that incorporates data from recent projects and approved by the County. All costs shall be adjusted to reflect costs that are current at the time of execution of the Proportionate Fair-Share Agreement. Any developer-constructed improvement project proposed to meet the developer's fair-share obligation shall meet the appropriate local standards for locally-maintained roadways and State standards for improvements on the State Highway System.

(g) The County shall notify the applicant regarding the date of the Board of County Commissioners meeting at which the agreement will be considered for final approval. A Proportionate Fair-Share Agreement shall not be effective until approved by the Board of County Commissioners.

(5) *Impact Fee Credit for Proportionate Fair-Share Mitigation.* Proportionate fair-share payments, dedication of rights-of-way accepted as proportionate fair-share payment, and developer-constructed improvements accepted as proportionate fair-share payment shall be eligible for road impact fee credits to the extent that the fair-share payment funds a capacity-adding road improvement that is eligible to be funded with road impact fees. The credit agreement shall be developed consistent with the provisions of "Section 70-103. Credits" of the Road Impact Fee System Regulations (Chapter 70, Article III, Sarasota County Code). The terms of the impact fee credit arrangement may be established in the Proportionate Fair-Share Agreement.

(6) *Proportionate Fair-Share Agreement.*

(a) Upon execution of a Proportionate Fair-Share Agreement, Land Development Services staff shall find the capacity added by the improvement for which the proportionate fair-share payment is made to be available service volume.

(b) The proportionate fair-share payment is due in full prior to issuance of the Final Development Order for the development that is the subject of the Proportionate Fair-Share Agreement. If the payment is submitted more than 12 months from the date of execution of the Agreement, the proportionate fair-share cost shall be recalculated at the time of payment based on the best estimate of the construction cost of the required improvement at the time of payment, pursuant to Section F.1.d(4).

(c) Dedication of rights-of-way accepted as proportionate fair-share payment pursuant to Section F.1.d(4)(e) shall be completed prior to issuance of Final Development Order for the development that is the subject of the Proportionate Fair-Share Agreement.

(d) All developer-constructed improvements accepted as proportionate fair-share payment pursuant to Section F.1.d(4)(f) shall be under construction prior to or concurrent with issuance of Final Development Order for the development that is the subject of the Proportionate Fair-Share Agreement. The developer-constructed improvement shall be completed prior to issuance of building permits for the development that is the subject of the Proportionate Fair-Share Agreement.

(e) The County may evaluate any proposed change to land uses or intensities of a development subsequent to issuance of a Final Development Order to determine if additional proportionate fair-share payments are required to mitigate the transportation impacts of the development. If the County determines additional fair-share payment is required, the Proportionate Fair-Share Agreement shall be amended consistent with these regulations. Any additional proportionate fair-share payment shall be made in full, and any dedication or developer-constructed improvement shall be completed, prior to issuance of any further Final Development Orders, including building permits.

(f) If the applicant fails to apply for a Final Development Order within one year of execution of the Proportionate Fair-Share Agreement, the Agreement shall be considered null and void.

(g) An Applicant may submit a letter to withdraw from a Proportionate Fair-Share Agreement at any time prior to the execution of the Agreement. Any application fee and any associated advertising costs to the County shall be non-refundable.

(7) *Administration of Proportionate Fair-Share Payments.*

(a) A proportionate fair-share payment shall be placed in the appropriate project account for funding the scheduled improvement in the Five-Year Schedule of

Capital Improvements.

(b) The County may apply a proportionate fair-share payment toward an operational improvement prior to construction of the capacity project for which the proportionate fair-share payments were made, provided that the operational improvement will mitigate the impacts of the proposed development's traffic consistent with these regulations.

(c) In the event a scheduled facility improvement is removed from the Five-Year Schedule of Capital Improvements, the County may apply the proportionate fair-share payment(s) collected for that improvement toward another improvement that will mitigate the impacts of the proposed development's traffic consistent with these regulations.

e. De Minimis Impact.

(1) Proposed Development seeking the issuance of a Development Order meeting de minimis criteria may satisfy the transportation concurrency requirement as set forth in this section. The following policy of the Sarasota County Comprehensive Plan shall serve as the basis for determining a de minimis impact:

(a) Traffic Circulation Policy 1.3.12.: For purposes of issuing development orders or permits, Sarasota County shall provide that proposed developments may be deemed to have de minimis impact and not be subject to transportation concurrency requirements if all of the conditions required for de minimis exemptions, as specified in Section 163.3180(6), Florida Statutes, are met.

(2) De Minimis Impact. A de minimis impact is an assignment of a Development's traffic to a roadway segment that is not greater than one percent of the maximum service volume at the segment's adopted Level of Service, based on the adopted Levels of Service and Generalized Level of Service Volumes as set forth in the Sarasota County Comprehensive Plan. An impact shall not be de minimis if either of the following apply:

(a) For a significantly impacted roadway segment not defined as an evacuation route in the Sarasota County Comprehensive Plan, Figure 2-8, existing traffic volumes plus projected Traffic Volume consignments as defined in Section F.1.b (1)(d) plus expected Development traffic volumes exceed 110 percent of the maximum service volume at the segment's adopted Level of Service, based on the adopted Levels of Service and Generalized Level of Service Volumes as set forth in the Sarasota County Comprehensive Plan.

(b) For a significantly impacted roadway segment defined as an evacuation route in the Sarasota County Comprehensive Plan, Figure 2-8, existing traffic volumes plus projected Traffic Volume consignments as defined in Section F.1.b (1)(d) plus expected Development traffic volumes exceed 100 percent of the maximum service volume at the segment's adopted Level of Service, based on the adopted Levels of Service and Generalized Level of Service Volumes as set forth in the Sarasota County Comprehensive Plan.

(c) The significantly impacted roadway segment has an adopted Level of Service "F" or is operating at Level of Service "F" with existing traffic volumes.

(3) A building permit application for a single-family residence on a Platted Lot of Record shall constitute a de minimis impact on all roadway segments regardless of the level of deficiency of an affected roadway segment and shall not be subject to a transportation concurrency review as required by Section E.2.g. and as set forth in this Section.

2. Potable water.

a. Level of Service standard. Policy 4.5.4 of the Apoxsee Public Facilities Plan shall serve as the minimum criteria for determining that adequate capacity exists for the provision of potable water, as follows:

Public Facilities Policy 4.5.4: Potable water Level of Service:

(1) System capacity shall be based on 250 gallons per Equivalent Dwelling Unit per day based on maximum daily flow plus the maintenance of minimum fire flow standards.

(2) Minimum potable water quality shall be as defined by the U.S. Environmental

Protection Agency, except where the State, or County may impose stricter standards.

A finding of concurrency related to this minimum Level of Service standard shall not preclude the placement of conditions on Development Orders regarding potable water service, including, but not limited to, fire flow standards, sizing of distribution and transmission lines, and peak capacity.

b. Development Orders shall be analyzed to determine the availability of adequate capacity using the following:

(1) An inventory of all Central Water Systems serving the unincorporated areas of Sarasota County, which includes, at a minimum, the following data for each system:

- (a) System capacity;
- (b) Capacity of wellfield, or other source of raw water supply;
- (c) Historical average flow of potable water;
- (d) Historical peak flow of potable water;
- (e) Number of hook-ups, in terms of Equivalent Dwelling Units; and
- (f) Number of hook-ups, in terms of Equivalent Dwelling Units, for which contractual commitments have been made.

(2) Project data pertaining to the Development Order under consideration shall be provided by the Developer, subject to verification by the County Environmental Services Business Center, and shall, at a minimum, contain the following:

- (a) The specific location of the project, including the identification of the entity expected to provide service to the project;
- (b) The proposed land uses and land use intensities, in terms of Equivalent Dwelling Units;
- (c) Total potable water demand and peak demand expected to be generated by [the] proposed project, consistent with the provisions of Sarasota County Ordinance No. 83-048, as amended; and
- (d) Project phasing information, if applicable.

(3) If the proposed service provider is other than the Sarasota County utility system, documentation will be required from the provider that the project is within its service area and that it has the capacity to serve the project as proposed. If the ability of a provider to serve a proposed project is contingent upon planned facility expansion, details regarding such planned improvements shall also be submitted.

(4) Prior to the issuance of a Final Development Order by the County, the Developer may be required to provide evidence of a contract with the service provider, indicating the provider's commitment and ability to serve the proposed project.

c. Concurrency analysis. Using the data supplied under Section F.2.b. above, the County Environmental Services Business Center shall evaluate the impacts of the proposed Development to determine whether adequate capacity is available, or will be available concurrent with the impacts of the Development. In the event that the data described in Section F.2.b.(1) above are not available in their entirety, the required data may be provided by the Developer subject to verification by the County Environmental Services Business Center.

3. *Sanitary sewer.*

a. Level of Service standard. Policy 1.5.3. of the Apoxsee Public Facilities Plan shall serve as the minimum criteria for determining that adequate capacity exists for the provision of sanitary sewer services, as follows:

- (1) Minimum average daily flow to be treated from domestic units shall be 200 gallons per Equivalent Dwelling Unit per day; and
- (2) Wastewater effluent shall meet standards defined by State law, permit requirements of the Florida Department of Environmental Protection, and County ordinance when discharged to groundwater or surface water in the County.

A finding of concurrency related to this minimum Level of Service standard shall not preclude the placement of conditions on Development Orders regarding sanitary sewer service, including, but not limited to, sizing of distribution and transmission lines, peak capacity and requirements related to effluent discharge standards.

b. Development Orders shall be analyzed to determine the availability of adequate capacity using the following:

(1) An inventory of all Central Sanitary Sewerage Systems serving the unincorporated area of Sarasota County which includes, at a minimum, the following data for each system:

- (a) System capacity;
- (b) Historical average daily flow of treated sewage;
- (c) Historical peak flow of treated sewage;
- (d) Number of hook-ups, in terms of Equivalent Dwelling Units; and
- (e) Number of hook-ups, in terms of Equivalent Dwelling Units, for which contractual commitments have been made.

(2) Project data pertaining to the Development Order under consideration shall be provided by the Developer, subject to verification by the County Environmental Services Business Center, and shall, at a minimum, contain the following:

- (a) The specific location of the project, including the identification of the entity expected to provide service to the project;
- (b) The proposed land uses and land use intensities, in terms of Equivalent Dwelling Units;
- (c) Total sewage treatment demand and peak demands expected to be generated by [the] proposed projects consistent with the provisions of Sarasota County Ordinances No. 83-048 and 87-001, as the same may be amended; and
- (d) Project phasing information, if applicable.

(3) If the proposed service provider is other than the Sarasota County utility system, documentation will be required from the provider that the project is within its service area and that it has the capacity to serve the project as proposed. If the ability of a provider to serve a proposed project is contingent upon planned facility expansion, details regarding such planned improvements shall also be submitted.

(4) Prior to the issuance of a Final Development Order by the County, the Developer may be required to provide evidence of a contract with the service provider, indicating the provider's commitment and ability to serve the proposed project.

c. Concurrency analysis. Using the data supplied under Section F.3.b. above, the County Environmental Services Business Center shall evaluate the impacts of the proposed Development to determine whether adequate capacity is available, or will be available concurrent with the impacts of the Development. In the event that the data described in Section F.3.b.(1) above are not available in its entirety, the required data may be provided by the Developer subject to verification by the County Environmental Services Business Center.

4. Parks.

a. Level of Service standard. Policy 1.1.1. of the Apoxsee Recreation and Open Space Plan shall serve as the minimum criteria for determining that adequate capacity exists for the provision of parks and recreation services, as follows:

Regulatory recreation Level of Service (LOS)

The County's recreation Level of Service (LOS) shall be no less than seven acres per 1,000 yearround (resident), incorporated Sarasota County population, to be allocated, among five park classifications, with the following minimum acreage allocations, which are based on the 1995 distribution of existing developed parks in Sarasota County:

0.3	acres of Neighborhood Park facilities;
0.4	acres of Community Park facilities;
0.9	acres of Metropolitan Park facilities;
1.8	acres of highly specialized park facilities; and
3.4	acres of other park acreage, including, but not limited to, parks designated as future capacity, conservation lands and water access

To qualify for inclusion as one of the park classifications in the above cited recreation LOS, a park site must meet the minimum criteria established in the County's Recreation Guiding Principles.

The 1995 distribution of existing developed parks in Sarasota County was determined using the annual County park inventory required as part of the Sarasota County Park Inventory required as part of the Sarasota County Concurrency Management Regulations and the University of Florida Bureau of Economic and Business Research Sarasota County population estimates approved annually by the Sarasota County Board of County Commissioners.

b. Requirements set forth in this section related to the determination of adequate parks and recreational facility capacity shall only apply to Development Orders, or those portions of Development Orders, which pertain to residential Development.

c. Development Orders shall be analyzed to determine the availability of adequate capacity using the following:

(1) An inventory of all parks and recreational facilities, including undeveloped park land, owned by Sarasota County, including, at a minimum, the following data for each facility:

- (a) Type of facility (e.g., Metropolitan, Community, Neighborhood or Special Park);
- (b) Acreage;
- (c) Inventory of available recreation activities;
- (d) Identification of Municipal Service Taxing Unit (MSTU) area, established by Sarasota County Ordinance No. 83-024, as amended, in which the facility is located; and
- (e) Identification of the Recreational Planning Area (RPA), as established in Apoxsee, in which the facility is located; and
- (f) Accessibility and/or Development status.

(2) Data for each MSTU area established for parks in the unincorporated area of Sarasota County, including:

- (a) Latest official resident population estimate; and
- (b) Estimated additional resident population resulting from Final Development Orders approved after the date the official population estimate was determined.

(3) Project data pertaining to the Development Order under consideration shall be provided by the Developer, subject to verification by the County Community Services Business Center, and shall, at a minimum, contain the following:

- (a) The specific location of the project, including the identification of the MSTU area and the RPA in which it is located;
- (b) The total number of residential dwelling units proposed, by type;
- (c) The total estimated residential population of the proposed Development consistent with the average household size established by the County Growth Management Business Center, based on [the] latest census information or population estimates prepared by the University of Florida Bureau of Economic and Business Research; and
- (d) Project phasing information, if applicable.

d. Concurrency analysis. Using the data supplied under Section F.4.c. above, the County Community Services Business Center shall evaluate the impacts of the proposed Development to determine whether adequate parks capacity is available, or will be available within the applicable MSTU area concurrent with the impacts of the Development. In the event that the information described in Sections F.4.c.(1) and F.4.c.(2). above, is not available in its entirety, the required data may be provided by the Developer subject to verification by the Community Services Business Center. For the purpose of this analysis, the acreage of a park will be included only if sufficient Development of recreation facilities has occurred, or will occur consistent with the required time frames provided for Development Order reviews in Section[s] E.2. and E.3. of these regulations, such that the recreational opportunities of the facility are available to the general public. The preceding provisions notwithstanding, the acreage provided by certain Special Parks for which the Development of recreational facilities is not planned, such as natural area parks, may be included to the extent that such park lands are accessible for purposes consistent with the amenities for which they have been included in the parks inventory.

5. *Drainage.*

a. Level of Service standard. Policy 3.3.2 of the Apoxsee Public Facilities Plan shall serve as the minimum criteria for determining that adequate capacity exists for the provision of drainage services as follows:

(1) *Stormwater quality:* No discharge from any stormwater discharge facility shall cause or contribute to a violation of water quality standards in waters of the State as provided for in County ordinances, federal laws and State statutes. Water quality Level of Service shall be set consistent with the protection of public health, safety and welfare and natural resources functions and values;

To protect water quality and maintain stormwater quality Level of Service standards:

a) The County shall implement a stormwater quality management plan consistent with the Federal NPDES requirements. The plan shall be adopted by the County after approval by the EPA.

b) New and existing industrial activities (as defined in the National Pollutant Discharge Elimination System regulations for stormwater) shall develop and implement a stormwater pollution prevention plan (SW3P) for such activity.

c) No discharge from any stormwater facility shall cause or contribute to a violation of water quality standards in waters of the State as provided for in County ordinances, federal laws, [and] State statutes. To meet this require[ment]:

(i) New Development and re-development shall include features to minimize pollution from oil, suspended soils [solids], and other objectionable materials. Such features shall be designed to treat the runoff resulting from the first one inch of rainfall. Stormwater systems shall include additional measures designed to reduce floating and suspended solids to a minimum. Higher design criteria for water treatment shall apply if such criteria are necessary to meet and maintain the Level of Service or to protect water bodies (such as potable surface waters or Florida outstanding waters) which require higher levels of protection. The higher design criteria shall be based on a treatment system which treats 1.5 times the volume required for the selected treatment system or equivalent.

(ii) New Development and re-development shall provide mitigation measures and best management practices to control pollutants specific to the pollutant characteristics of the proposed land use consisting of best management practices shown to be effective in controlling the specific pollutants characteristic of the type of new Development.

(iii) All Development shall meet and be consistent with requirements in the basing [basin] master plans.

(iv) Mitigation measures and best management practices relating to drainage shall be taken during construction activities to ensure that water

quality is not degraded during the land clearing and construction of Development. No cutting, clearing, grading or filling shall be accomplished on any site under Development unless appropriate devices have been installed to minimize pollution from objectionable materials, to control erosion, and to remove sediment from surface water runoff. Appropriate techniques shall also be utilized to stabilize and revegetate disturbed areas as soon as possible.

d) Best management practices shall be encouraged for intensive agricultural land use practices that negatively impact water quality.

e) The County's basin master plans shall include evaluation of pollutant loading.

(2) *Stormwater quantity*: Stormwater management systems shall provide for adequate control of stormwater runoff. The stormwater quantity Level of Service shall be:

Stormwater Quality Level of Service and Design Criteria

TABLE INSET:

Flooding Reference (buildings, roads and sites)		Level of Service (flood intervals in years)
I.	Buildings:	
	Emergency shelters and essential services	>100
	Habitable	100
	Employment/service centers	100
II.	Road access: Roads shall be passable during flooding. Roadway flooding <6" depth at the outside edge of pavement is considered passable.	

TABLE INSET:

Flooding Reference (buildings, roads and sites)		Level of Service (flood intervals in years)
	Evacuation	>100
	Arterials	100
	Collectors	25
	Neighborhood	10
III.	Sites: Flooding refers to standing water in agricultural land, developed open or green space (yards and parking lots, etc.) and undeveloped lands designated for future Development. This does not include areas incorporated into the stormwater or basin master plan as floodways, floodplain, or flood storage areas.	
	A. Urban (>1 unit/acre)	5
	B. Rural	2

IV. The water quality Level of Service can be adjusted to allow for greater amounts of flooding of roads and sites if the flooding is provided for in a basin master plan or as part of a stormwater management system design and does not adversely impact public health and safety, natural resources or property. The Level of Service for existing Development and for improvements to existing roadways may be adjusted based on existing conditions such as adjacent topography, and economic and social impacts.

The requirements to maintain stormwater quantity Level of Service standards are stated below:

a) New Developments shall be designed to maintain the water quantity Level of Service standard and to minimize adverse stormwater impacts. Stormwater runoff shall not be diverted in such a way as to overload on-site or off-site stormwater management systems and natural drainage features or floodways beyond their Level of Service standard. Stormwater management plan designs shall provide for the attenuation/retention of stormwater from the site. Water released from the site shall be in

such a manner as to ensure that the rate of runoff after Development is less than or equal to that before Development under existing conditions for up to and including [the] 100-year, 24-hour storm. The County shall pursue opportunities for off-site public or private regional stormwater attenuation/retention facilities to be used to accomplish stormwater attenuation requirements.

b) Until drainage improvements are made to upgrade the Level of Service, Developments in basins identified through basin master plans as not meeting the Level of Service shall limit the rate of runoff after Development to the drainage system capacity by limiting the 100-year, 24-hour post-Development runoff rates to the apportioned downstream flow capacities which do not cause flooding of residential structures.

c) Best management practices shall be encouraged for intensive agricultural land use practices which substantially increase runoff rates.

d) All new Development and stormwater management systems shall meet and be consistent with the requirements in the basin master plans.

e) Stormwater facilities shall provide for stormwater percolation and groundwater recharge, where possible.

b. Development Orders shall be evaluated to determine the availability of adequate capacity of stormwater management systems using the following:

(1) An inventory of all major and minor water management facilities and documentation of the ability of such facilities to accommodate the design storms as specified in the Level of Service standard.

(2) Project data pertaining to the Development Order under consideration shall be provided, by the Developer, consistent with the provisions of Section[s] B2.1.d. and C2.1.h. of the Sarasota County Land Development Regulations (Ordinance No. 81-012, as amended) which set forth minimum requirements for the submission of [the] stormwater management plan and reports for Subdivision applications, and utilities and stormwater management plans for Site and Development Plan applications, respectively.

c. Concurrency analysis. Using the data supplied under Section F.5.b. above, the Stormwater Management Division of the County Public Works Business Center shall evaluate the impacts of the proposed Development to determine whether adequate drainage capacity is available, or will be available concurrent with the impacts of the Development consistent with Section F.5.a. of these regulations and with Section[s] B4.4 and C5.1 of the Sarasota County Land Development Regulations.

d. The provisions of Sections E.1 and E.2 of these regulations notwithstanding, concurrency analysis may be deferred during the review of Rezoning and Special Exception Petitions. However, no building permits shall be approved, with the exception of those for a single-family residence on a Platted Lot of Record, unless such Development has been granted approval as part of a Preliminary Subdivision Plan or a Site and Development Plan, for which a finding of concurrency has been made.

6. *Solid waste.*

a. Level of Service standard. Policy 2.4.1 of the Apoxsee Public Facilities Plan shall serve as the minimum criteria for determining that adequate capacity exists for the provision of solid waste collection and disposal exists [sic], as follows:

1) Collection and capacity of solid waste for a minimum of 6.9 pounds per person per day; and

2) Collection of residential solid waste in solid waste MSTU areas at least weekly.

b. Development Orders shall be analyzed to determine the availability of adequate capacity using the following:

(1) Documentation projecting annual usage rates of solid waste disposal through the expected life of the Bee Ridge Sanitary Landfill, using population projections consistent with Apoxsee;

(2) Documentation regarding the performance of solid waste collection franchises within the MSTU areas establish[ed] in Sarasota County Ordinance No. 86-035, as

amended; and

(3) Project data, pertaining to the Development Order under consideration, shall be provided by the Developer, subject to verification by the County Environmental Services Business Center, in sufficient detail to determine the annual impact of the proposed Development on the solid waste facilities, including at a minimum:

- (a) The number and type of residential units;
- (b) The type and intensity of nonresidential uses and estimated generation of solid waste; and
- (c) Project phasing information, if applicable.

c. Concurrency analysis. Using the data applied under Section F.6.b. above, the County Environmental Services Business Center shall annually prepare a statement that sufficient landfill capacity exists to meet existing and projected solid waste disposal requirements through the activation date of the Central County Solid Waste Disposal Complex proposed for location on the Walton Tract. This statement will serve as the finding of concurrency applied to a Final Development Order for the following year.

7. *Public Schools.*

a. *Adopted Level of Service standards and School Concurrency Service Areas.* Public School Facilities Policy 1.6.1.2. adopts School Concurrency Service Areas that coincide with the Student Attendance Zones of high, middle and elementary schools. Because student assignment for special purpose schools is not limited by conventional attendance zone boundaries, their available capacity will be allocated district-wide or by other methods as appropriate to each special purpose school. To ensure that adequate school capacity is available Adopted Level of Service (LOS) standards based on Program Capacity are adopted in Public School Facilities Policy 1.6.1.1. as follows:

TABLE INSET:

		Adopted Level of Service		
Concurrency Service Area	School Type	Initial (2007-08)	5-Year (2012-13)	10-Year (2017-18)
Student Attendance Zone	Elementary	115% of permanent program capacity, with the exception of Backlogged Public School Facilities	105% of permanent program capacity, with the exception of Backlogged Public School Facilities	105% of permanent program capacity
	Middle	100% of permanent program capacity, with the exception of Backlogged Public School Facilities	100% of permanent program capacity, with the exception of Backlogged Public School Facilities	100% of permanent program capacity
	High	105% of permanent program capacity	100% of permanent program capacity	100% of permanent program capacity
District-wide	Special purpose	100% of total program capacity	100% of total program capacity	100% of total program capacity

The adopted Public School Facilities Chapter has designated School Concurrency Service Areas with Backlogged Public School Facilities and has adopted interim Level of Service standards for these facilities (refer to the Comprehensive Plan, Public School Facilities Chapter,

Appendix F, Table PSF 23: Interim Level of Service standards, as may be amended). The interim Level of Service standards within these designated areas shall apply over the period covered by the ten-year long-term schedule of improvements.

b. *Applicability.* All construction plans (final subdivision or site and development plans) accepted on or after October 1, 2008, unless considered Exempt Development by this Ordinance, shall be evaluated in terms of potential Development Impact on public school facilities. A determination shall be made as to whether or not sufficient Available School Capacity is available to support said Development at or above the Adopted Level of Service for these school facilities. Such a determination shall be made through the utilization of the following information produced by the Sarasota County Planning and Development Services Business Center in coordination with the Sarasota County School District:

(1) Prior to submission of a School Concurrency Application, the Applicant shall meet with the School District Designee to confirm the scope and applicability of these regulations and to identify potential public school facility deficiencies that may need to be mitigated. At or following the pre-submittal meeting, the School District Designee shall:

- (a) Provide the current Sarasota School District Five-Year Capital Facilities Plan;
- (b) Identify School Capacity for each School Type within the Applicable School Concurrency Service Area;
- (c) Provide other relevant and available information regarding demand for public school facilities and Available School Capacity, including Adjacent Review;
- (d) Summarize the scope of the School Concurrency Application requirements, which shall include, but not necessarily be limited to, the information listed in F.7.b.(2) of these regulations; and
- (e) Determine whether or not Available School Capacity exists and whether the Applicant would like to explore Proportionate Share Mitigation options. If so, specify the mitigation options to be considered and, if possible, the proposed amount and type of Proportionate Share Mitigation.

(2) Information regarding the proposed Development for which issuance of a Development Order for Residential Development has been requested shall be provided by the Applicant, subject to verification by the Sarasota County Planning and Development Services Business Center in coordination with the Sarasota County School District. This information will be submitted as the School Impact Analysis and shall include the following information:

- (a) Name, address, and phone number of the applicant;
- (b) Property location of the proposed Development, including parcel identification numbers and vicinity map in GIS format is preferable;
- (c) A description of the proposed Development, including type, intensity and amount of development, adequate to determine the number and type of public school students generated by the proposed Development;
- (d) A phasing schedule for any proposed Development to be completed in more than one phase;
- (e) A description of any proposed Public School Facility dedicated, constructed, or funded in order to mitigate the public school impacts of the proposed Development;
- (f) A calculation showing the Development Impact by School Type;
- (g) A calculation of any school impact fees that will be assessed prior to occupancy of the Dwelling Units or lots that are part of the Development Proposal;
- (h) In the event that there is not Available School Capacity to accommodate the Development Proposal, a proposed Proportionate Share Mitigation Agreement as provided in F.7.e. of these regulations, using the form provided by the School District, and a description of the proposed Proportionate Share Mitigation option

(s) being utilized as provided in F.7.d. of these regulations;

(i) In the event, proposed Proportionate Share Mitigation includes a proposed school site requested or approved by the School District, an evaluation of how the school site meets the evaluation criteria of Section 5.2 of the Amended Interlocal Agreement for Public School Facility Planning and Future Land Use Policies 3.5.1 and 3.5.3.; and

(j) Other relevant information required by the School District that is needed to evaluate the School Concurrency Application and to make a finding with regard to Available School Capacity.

(3) The following Development Orders for Residential Development shall be exempt from the requirements of school concurrency:

(a) Development Orders for Residential Development including less than or equal to the number of residential units considered de minimis by law, or that creates an impact of less than one student, whichever is greater.

(b) A single-family residence or a duplex for Residential Development on an existing platted residential lot of record.

(c) Any building or structure that has received a building permit as of the effective date of these regulations or as described in F.S. § 163.3167(8).

(d) Any amendment to any previously approved Development Order which does not increase the number of dwelling units or change the type of dwelling units (i.e., convert single-family to multifamily).

(e) Any age restricted development that qualifies as one of the three types of communities designed for older persons as "housing for older persons" in the Housing for Older Persons Act, 42 U.S.C. Section 3607(b). This exemption shall be applied in conformity with the principles set forth in *Volusia County v. Aberdeen at Ormond Beach, L.P.*, 760 So. 2d, 126 (Fla. 2000). Provided however, any community that loses its qualification as housing for older persons shall be required to meet the applicable school concurrency requirements in effect at the time the qualification is lost.

(f) Any Development of Regional Impact that has filed a complete application for a Development Order prior to May 1, 2005, or for which a development order was issued prior to July 1, 2005. This exemption shall expire upon withdrawal, denial or expiration of the application for a development order. This exemption shall not apply where the developer files a Notice of Proposed Change and/or Substantial Deviation to increase the number of Residential Units.

(g) Any Development Order for Residential Development with a letter of vesting for purposes of complying with school concurrency or which would be vested under common law or equitable estoppel.

(h) Group living facilities that do not generate students including residential facilities such as local jails, prisons, hospitals, bed and breakfasts, motels and hotels, temporary shelters for the homeless, adult halfway houses, firehouse sleeping quarters, dormitory-type facilities for post-secondary students, and religious nonyouth facilities, regardless of whether such facilities may be classified as residential.

c. *Review and Evaluation Procedures.* The Planning and Development Services Staff shall transmit the School Impact Analysis to the School District for its review under the following evaluation process:

(1) The School District may require additional information from the Applicant.

(2) The School District shall review each School Impact Analysis in the order in which the application is accepted by Sarasota County and analyze whether there is Available School Capacity for each School Type in the affected School Concurrency Service Area to accommodate the Development Impact of the Residential Development. Such review shall apply the following criteria:

(a) Determine the Development Impact of the proposed Development including

the projected students to be generated by the development by School Type using the School District student generation rates (SGR).

(b) New Capacity within a School Concurrency Service Area that is in place or programmed for construction in the first three years of the Sarasota School District Five-Year Capital Facilities Plan will be added to the existing School Capacity in the School Concurrency Service Area and will be counted to determine Available School Capacity for the Residential Development under review.

(c) The School District shall review the School Impact Analysis and determine whether Available School Capacity can accommodate the Development Impact (Available School Capacity exceeds Development Impact) as derived using the following formula for each School Type:

Formula for Determining Available School Capacity

Available School Capacity = (School Capacity X Adopted Level of Service) - [Used Capacity (Enrollment) + Reserved Capacity]

Where Adopted Level of Service = the ratio, expressed as a percentage, of Enrollment to School Capacity as provided in F.7.a. of these regulations.

Where Used Capacity (Enrollment) = Student enrollment as projected for the first three years of the Sarasota School District Five-Year Capital Facilities Plan.

(d) The School District shall complete a review of the School Impact Analysis and issue a School Concurrency Recommendation to the Planning and Development Services Staff.

(e) Adjacency Review. If there is insufficient Available School Capacity to accommodate the Development Impact at the Adopted Level of Service in the affected School Concurrency Service Area, the School District shall review the Development Impact to determine whether there is sufficient Available Capacity in an adjacent School Concurrency Service Area to accommodate the impacts of the proposed Development and whether the impacts of the development can be shifted to the adjacent School Concurrency Service Area. The Development Impact shall be accommodated in an adjacent School Concurrency Service Area where the impacts of development can be shifted to the adjacent area, except where the following conditions exist: a shifting will cause a disruption of the educational programs of the School District or is in conflict with the School Board policy on students' travel time to school.

(f) In the event there is insufficient Available School Capacity in the affected or adjacent School Concurrency Service Area, the School District shall indicate its finding in its School Concurrency Recommendation, and may offer the Applicant the opportunity to enter into negotiation for Proportionate Share Mitigation as provided in F.7.d. of these regulations. If proposed mitigation is agreed upon, the School Board shall enter into an enforceable and binding agreement with the Board of County Commissioners and the Applicant as provided in F.7.d. of these regulations.

(g) If the School District finds there is sufficient Available Capacity to accommodate the Development Impact, the School District shall issue a School Concurrency Recommendation with a finding of Available School Capacity to the Planning and Development Services staff and encumber the Development's school capacity during the pending review of the proposed Development for a period not to exceed 365 days from the date of its determination, or until the application is deemed denied or expired by the local government, whichever is first. The Planning and Development Services staff may issue a School Concurrency Letter based on the School District's recommendation of Available Capacity.

(h) Upon approval of a final site plan for residential development, not requiring a plat, or the functional equivalent by the respective local government, encumbered school capacity necessary for the approved development will be deemed as reserved capacity. A finding of available public school capacity shall be valid for a

period not to exceed two years from final site plan approval. For a finding of available public school capacity to remain valid for a period longer than two years from final site plan approval, building permit(s) for residential development on the approved final site plan must have been issued prior to the expiration date of final site plan approval and the building permits must remain valid. The expiration of an approved site plan shall require a new review of public school capacity.

(i) Platted single and two-family lots shall retain their reserved capacity for the duration of the plat.

(j) The rendering of a School Concurrency Recommendation by the School District means that the school facilities are currently available. Available School Capacity shall not be reserved until a Certificate of School Concurrency is issued and a Final Development Order for the proposed Development is approved by Sarasota County. In the event Proportionate Share Mitigation is required, the Proportionate Share Mitigation Agreement pursuant to F.7.d. of these regulations must be executed and the proposed Development approved by Sarasota County to reserve capacity for the proposed Development.

d. *Proportionate Share Mitigation.*

(1) *Applicability.* The provisions of this section shall apply to an applicant that either has received a School Concurrency Recommendation and School Concurrency Letter of insufficient Available School Capacity or wishes to proffer Proportionate Share Mitigation.

(2) *General Requirements.* The agreement shall provide mitigation that is at least proportionate to the demand for Public School Facilities to be created by the additional or new residential units in the proposed Development, and for which there is not sufficient Available School Capacity.

(a) The proposed Development is otherwise consistent with the comprehensive plan and applicable land development regulations.

(b) Proportionate Share Mitigation may not be provided unless it is first accepted by both the School District and Sarasota County.

(c) Any mitigation that is provided for in a Proportionate Share Mitigation Agreement must satisfy the demand created by the additional or new residential units.

(d) The mitigation shall be directed by the School District toward Planned Public School Facilities identified in the first three years of the Sarasota School District Five-Year Capital Facilities Plan. The School District shall agree to amend the Capital Facilities Plan during the next annual update to include the School Capacity improvement being offered as Proportionate Share Mitigation.

(e) The Proportionate Share Mitigation Agreement must be signed by the applicant and School District before a Certificate of School Concurrency is issued. Sarasota County shall execute the Proportionate Share Mitigation Agreement prior to Final Development approval.

(f) The location of the proposed mitigation is consistent with the comprehensive plan.

(3) *Options for Proportionate Share Mitigation.* The applicant and the School District shall consult on the options available for mitigating the Concurrency Service Area affected by the proposed Development. The agreed upon mitigation shall be described in an exhibit to the Proportionate Share Mitigation Agreement. If the applicant chooses to enter into a Proportionate Share Mitigation Agreement, he or she shall provide one or more of the following Proportionate Share Mitigation options:

(a) the contribution or payment for acquisition of new or expanded school sites;

(b) the construction or expansion, or payment for, permanent school facilities;

(c) mitigation banking within a designated area based on the construction of a Public School Facility in exchange for the right to keep or sell School Capacity credits. Capacity credits shall only be sold to developments within the same

School Concurrency Service Area or a contiguous School Concurrency Service Area; or

(d) the construction of public school facilities within an Educational Facilities Benefit District as provided in F.S. § 1013.355.

(4) *Application Process.*

(a) At the time of review of an application for a Development Order, Planning and Development Services staff shall notify the applicant if there are public school improvements recommended by the School District which satisfy the requirements of F.7.c.(2)(f) of these regulations. The notification shall be provided in writing and shall indicate whether the applicant has the opportunity to satisfy school concurrency requirements through a Proportionate Share Mitigation Agreement.

(b) Prior to submitting an application to enter into a Proportionate Share Mitigation Agreement, a pre-application meeting shall be held with the School District to discuss eligibility, application submittal requirements, potential mitigation options, and related issues.

(c) Eligible applicants shall submit an application to Planning and Development Services that includes the following:

- (i) Name, address and phone number of owner(s), developer, and agent;
- (ii) Property location, including parcel identification number(s);
- (iii) Legal description and survey of property;
- (iv) Project description, including type, intensity and amount of development;
- (v) Phasing schedule, if applicable;
- (vi) Description of requested proportionate share mitigation method(s); and
- (vii) Copy of the School Impact Analysis.

(d) The County in consultation with the School District shall review the application and certify that the application is sufficient and complete within ten business days. If an application is determined to be insufficient, incomplete, or inconsistent with the General Requirements of F.7.d.(2) of these regulations, then the applicant will be notified in writing of the reasons for such deficiencies within ten business days of submittal of the application. If such deficiencies are not remedied by the applicant within 30 days of receipt of the written notification, then the application will be deemed abandoned. Planning and Development Services staff may, at their discretion, grant an extension not to exceed 60 days to address such deficiencies, provided the applicant has shown good cause for the extension and has taken reasonable steps to effect a cure.

(e) When an application is deemed sufficient, complete, and eligible, the applicant shall be advised in writing and a proposed proportionate share mitigation obligation and binding agreement will be prepared by the applicant under the direction of County and/or School District and delivered to the appropriate parties for review, including a copy to the School District for any proposed proportionate share mitigation on a public school facility. The proposed agreement shall be provided no later than 60 days from the date at which the applicant received the notification of a sufficient application and no fewer than 21 days prior to the School Board meeting where the agreement will be considered. The School District shall notify the County and the applicant regarding the date of the School Board meeting at which the agreement will be considered for approval. The mitigation agreement must be approved by the applicant and School Board prior to consideration by the Board of County Commissioners for final approval. However the County Administrator is delegated authority to approve mitigation agreements or may refer the agreement to the Board of County Commissioners for approval.

(f) If referred to the Board of County Commissioners, the Board shall consider the agreement at its next available meeting. The County shall notify the applicant and School District regarding the date of the Board of County Commissioners meeting at which the agreement will be considered for final approval. A Proportionate Share Mitigation Agreement shall not be effective until approved by the applicant, the School Board and the County.

(5) *Determining Proportionate Share Mitigation Obligations.*

(a) The full cost of Proportionate Share Mitigation shall be required from the Development Proposal. The amount of Proportionate Share Mitigation required from an applicant shall be calculated by applying the adopted student generation rate (SGR) to the Total Cost or Cost per Student Station Estimate for each school type (elementary, middle, high and special schools) for which there is not sufficient Available School Capacity (Development Impact exceeds Available School Capacity). The minimum Proportionate Share Mitigation obligation for a proposed Development shall be determined by the following formulas:

(i) *Formula for Number of Student Stations to Be Mitigated (by School Type) (Net Development Impact):*

Net Development Impact = Development Impact - Available School Capacity for the proposed Development

[Where Development Impact = (Number of Dwelling Units Generated by Development Proposal, by Housing Type) × (Student Generation Rate (SGR) by Housing Type and School Type)]

(ii) *Formula for Cost of Mitigation:*

Cost of Proportionate Share Mitigation = Net Development Impact X Total Cost [or Cost per Student Station Estimate (by School Type)]

Where Net Development Impact = Number of New Student Stations Required for Mitigation (by School Type)

(b) Total costs shall include the cost per student station plus a share of the land acquisition costs, additional core and ancillary facilities and other anticipated supporting infrastructure expenditures or costs needed to provide sufficient capacity to the impacted school or schools, and may include any cost needed to pay the interest to advance a school schedule in the Five-Year Capital Facilities Plan to an earlier year. For the purposes of determining proportionate share obligations, the School District shall determine these costs based on the actual cost of improvements as obtained from the applicable Sarasota School District Five-Year Capital Facilities Plan.

(c) The School Board in consultation with the County may accept school sites for the proportionate share mitigation payment. If the School Board accepts a school site dedication for the proportionate share payment, dedication of the school site shall be valued on the date of the dedication at 115 percent of the most recent assessed value by the County property appraiser or, at the option of the applicant, at 100 percent of the fair market value established by an independent appraisal approved by the School District and at no expense to the County or School District. The applicant shall supply a drawing and legal description of the land and a certificate of title or title search of the land to the School District at no expense to the School District. If the estimated value of the school site dedication proposed by the applicant is less than the total proportionate share obligation for that development, the applicant shall also pay the balance of the proportionate share payment. The valuation of fair market value of the donated land at its highest and best use shall utilize the land uses and approvals in place prior to the application for the proposed Residential Development that requires Proportionate Share Mitigation without any consideration of any enhanced value of the donated land resulting from subsequent development approvals by Sarasota County.

(d) The County and School District may accept a developer-constructed

improvement public school facility project as the proportionate share payment. If the School District accepts an improvement project proposed by the applicant, the value of the improvement shall be established by a School District analysis of costs that incorporates data from recent projects approved by the School District. All costs shall be adjusted to reflect costs that are current at the time of execution of the Proportionate Share Mitigation Agreement. Any developer-constructed improvement project proposed to meet the developer's proportionate share obligation shall meet the appropriate standards established by the Sarasota School District and Department of Education State Requirements for Education Facilities.

(e) The alternative financing of the construction of public school facilities through an Educational Benefit District shall be established through interlocal agreement approved by the School Board and Sarasota County as provided in F.S. § 1013.355.

(6) *Impact Fee Credit for Proportionate Share Mitigation.* Proportionate share payments, dedication of school sites accepted as proportionate share payment, and developer-constructed improvements accepted as proportionate share payment shall be eligible for school impact fee credits to the extent that the share payment funds a capacity-adding public school improvement that is eligible to be funded with school impact fees. The terms of the impact fee credit arrangement may be established in the Proportionate Share Mitigation Agreement. Impact Fee Credit shall be calculated as follows:

Equivalent Residential Units (ERU) for which Proportionate Share Mitigation is provided
X Impact Fee per Dwelling Unit.

Where Equivalent Residential Units (ERU) = Net Development Impact divided by (SGR)

(7) *Administration of Proportionate Share Mitigation Payments.*

(a) A proportionate share mitigation payment shall be placed in the appropriate project account for funding the scheduled improvement in the Sarasota School District Five-Year Capital Facilities Plan.

(b) In the event a scheduled facility improvement is removed from the Five-Year Schedule of Capital Improvements, the School District may apply the proportionate share payment(s) collected for that improvement toward another improvement that will mitigate the impacts of the proposed development's public school needs consistent with these regulations.

e. *Proportionate Share Mitigation Agreement.*

(1) Upon execution of a Proportionate Share Mitigation Agreement, Planning and Development Services staff shall find the capacity added by the improvement for which the proportionate share mitigation is made to be Available School Capacity.

(2) The proportionate share mitigation is due in full prior to issuance of the Final Development Order for the development that is the subject of the Proportionate Share Mitigation Agreement. If mitigation is in the form of a payment which is submitted more than 12 months from the date of execution of the Agreement, the proportionate share cost shall be recalculated at the time of payment based on the best estimate of the construction cost of the required improvement at the time of payment, pursuant to F.7.f.(6)(b) of these regulations.

(3) Dedication of school sites accepted as proportionate share payment pursuant to F.7.f.(6)(c) of these regulations shall be completed prior to issuance of Final Development Order for the development that is the subject of the Proportionate Share Mitigation Agreement.

(4) All developer-constructed improvements accepted as proportionate share mitigation pursuant to F.7.f.(6)(d) of these regulations shall be under construction prior to or concurrent with issuance of Final Development Order for the development that is the subject of the Proportionate Share Mitigation Agreement. The developer-constructed improvement shall be completed prior to issuance of building permits for the development that is the subject of the Proportionate Share Mitigation Agreement.

(5) After issuance of a Final Development Order, the County may evaluate any developer proposed changes to land uses or intensities of an approved development plan to determine if additional proportionate share mitigation is required to mitigate the public school impacts of the development. If the County determines additional proportionate share is required, the Proportionate Share Mitigation Agreement shall be amended consistent with these regulations. Any additional proportionate share mitigation shall be made in full, and any dedication or developer-constructed improvement shall be completed prior to issuance of any further Final Development Orders, including building permits.

(6) If the applicant fails to apply for a Final Development Order within one year of execution of the Proportionate Share Mitigation Agreement, the Agreement shall be considered null and void.

(7) An applicant may submit a letter to withdraw from a Proportionate Share Mitigation Agreement at any time prior to the execution of the Agreement.

(8) Any application fee and any associated advertising costs to the County and School District shall be nonrefundable.

(Ord. No. 2004-084, § 3, 9-15-2004; Ord. No. 2006-090, §§ 2, 3, 12-19-2006; Ord. No. 2008-004, § 2, 1-9-2008; Ord. No. 2008-103, § 10, 9-10-2008; Ord. No. 2009-013, §§ 2--4, 1-28-2009)

Secs. 94-259--94-260. Reserved.