

HERNANDO COUNTY
COMPREHENSIVE PLAN

**CHAPTER 15:
PUBLIC SCHOOL FACILITIES**

CHAPTER 15: PUBLIC SCHOOL FACILITIES

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TO PROVIDE FOR FUTURE AVAILABILITY OF PUBLIC SCHOOL FACILITIES IN A MANNER CONSISTENT WITH THE ADOPTED

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TO ESTABLISH A PROCESS FOR THE IMPLEMENTATION OF SCHOOL CONCURRENCY THROUGH CAPACITY DETERMINATION STANDARDS, CONCURRENCY DETERMINATION PROCESS, AND PROPORTIONATE

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GOAL 11.01

TO PROVIDE FOR FUTURE AVAILABILITY OF PUBLIC SCHOOL FACILITIES IN A MANNER CONSISTENT WITH THE ADOPTED LEVEL OF SERVICE STANDARD.

LEVEL OF SERVICE STANDARDS FOR PUBLIC SCHOOL CAPACITY
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OBJECTIVE 11.01A: ESTABLISH LEVEL OF SERVICE GUIDELINES FOR PUBLIC SCHOOL CAPACITY.

POLICY 11.01A(1): The Level of Service (LOS) standard set forth herein shall be applied consistently by the County and the School Board district-wide to all schools of the same type. The LOS standards to implement school concurrency shall be as follows:

- (a) Elementary: 100% of Permanent FISH Capacity for Permanent Student Stations and 100% of Permanent FISH Capacity for Core Facilities. Whichever is the greater number will be used for calculating student capacities for LOS.
- (b) Middle School: 100% of Permanent FISH Capacity for Permanent Student Stations and 100% of Permanent FISH Capacity for Core Facilities. Whichever is the greater number will be used for calculating student capacities for LOS.
- (c) High School: 100% of Permanent FISH Capacity for Permanent Student Stations and 100% of Permanent FISH Capacity for Core Facilities. Whichever is the greater number will be used for calculating student capacities for LOS.
- (d) Magnet schools will maintain the level of service standard for the type of school for which it is constructed whether an elementary, middle, or high.
- (e) Core Facilities shall mean Permanent Cafeteria Capacity based on FISH standards.

POLICY 11.01A(2): For the purposes of the level of service standard for public school capacity, FISH capacity shall refer to the Florida Inventory of School Houses (FISH) report of permanent

capacity of existing public school facilities. The FISH Capacity is the number of students that may be housed in a facility (school) at any given time based upon a percentage by school type (*i.e.* elementary, middle, high) of the total number of existing student stations and a designated size for each program. In Hernando County, permanent capacity does not include temporary classrooms unless they meet the standards for long-term use pursuant to s. 1013.20, *Florida Statutes*.

POLICY 11.01A(3):

The adopted level of service standard shall become applicable to Hernando County in conjunction with the adoption of the Public School Facilities Element, and the land development regulations shall be amended to include the level of service standards.

POLICY 11.01A(4):

The issuance of development orders for new residential units shall be predicated on the availability of school capacity.

POLICY 11.01A(5):

Where capacity will not be available to serve students from the property seeking a land use or zoning change or other development approval, based on an Available Capacity Review as required in the Adequate Public Facilities Ordinance, then the County may use the lack of school capacity as a basis for denial.

POLICY 11.01A(6):

The level of service standards will be used to determine whether sufficient school capacity exists to accommodate future development projects, and evaluate the sufficiency of the Five-Year Schedule of Capital Improvements. The Five-Year Schedule of Capital Improvements shall be reviewed, updated, and adopted annually thus ensuring those projects necessary to address existing deficiencies, and to meet future needs based upon the adopted level of service standards are adequately planned. The annual update to the Five-Year Schedule of Capital Improvements shall ensure the capital improvements program continues to be financially feasible and the level of service standards will continue to be achieved and maintained.

POLICY 11.01A(7):

The Level of Service standard is also measured to account for programmatic changes, which means changes to the operation of the school that has consistent and measurable capacity impacts including, but not limited to, double

sessions, floating teachers, year-long schools, and special educational programs.

- (1) To determine available capacity as a result of programmatic changes, there must be student stations at each grade level for the particular schools in the CSA's affected.

POLICY 11.01A(8):

In order to determine if the available adjacent capacity can be utilized, the following additional criteria shall apply:

- (1) Travel time and distance. School bus route from the school to the site of the proposed development should not exceed 50 minutes;
- (2) Where school capacity is reserved for a specific academic or magnet program(s) at a particular school or for establishing student diversity, then such capacity cannot be claimed in a contiguous concurrency service area for purposes of determining available capacity.
- (3) If the boundary is adjacent based on its connection by the Withlacoochee State Forest, it should not be deemed adjacent.

CONCURRENCY SERVICE AREAS

OBJECTIVE 11.01B: ESTABLISH SCHOOL CONCURRENCY SERVICE AREAS TO BE USED TO DETERMINE THE AVAILABILITY OF PUBLIC SCHOOL CAPACITY TO SERVE NEW RESIDENTIAL DEVELOPMENT.

POLICY 11.01B(1):

Concurrency service areas (CSA) shall be established to determine whether there is adequate school capacity available based on the adopted level of service standards, and so that a proper analysis can be conducted to examine the availability of capacity in adjacent CSA's if capacity is not available in the primary CSA.

POLICY 11.01B(2):

Hernando County will create Concurrency Service Areas that are based on school attendance zones so that there is school capacity available in each concurrency service area or contiguous concurrency service areas to meet the adopted level of service standard within the five year time

frame contained in the Florida Statutes.

- POLICY 11.01B(3):** CSAs shall be established and subsequently modified to maximize available school capacity and make efficient use of new and existing public school facilities in accordance with the LOS standards, and taking into account policies to:
- (a) minimize transportation costs;
 - (b) limit maximum student travel times;
 - (c) effect desegregation plans;
 - (d) achieve socio-economic, racial and cultural diversity objectives;
 - (e) recognize capacity commitments resulting from the development approvals for the CSA; and,
 - (f) recognize capacity commitments resulting from development approvals for contiguous CSAs.
- POLICY 11.01B(4):** All CSAs will be described geographically and appropriately mapped.
- POLICY 11.01B(5):** Future amendments to the CSA's may be made by the School Board in accordance with the criteria in Policy 11.01B(3) and only after review and comment by the County and the City, respectively.
- POLICY 11.01B(6):** Upon adoption of CSAs by the School Board, said CSAs and supporting maps will be incorporated as amendments to the adopted comprehensive plans of the County and the City, respectively, in accordance with the Growth Management Act (*see* 163.3180(13)(g)(5), *Florida Statutes*; Rule 9J-5.003, *Florida Administrative Code*).

LAND USE AND SCHOOL FACILITY COORDINATION

- OBJECTIVE 11.01C: ENSURE THAT COMPREHENSIVE PLAN AMENDMENTS AND OTHER LAND USE DECISIONS ARE SIMULTANEOUSLY EVALUATED WITH SCHOOL CAPACITY AVAILABILITY WITHIN THE PRIMARY CSA AND THOSE CSA'S WHICH ARE CONTIGUOUS.**

- POLICY 11.01C(1):** The County shall consider Hernando County School Board comments on the availability of adequate school capacity when considering the decision to approve comprehensive plan amendments and other land use decisions as provided for in 163.3177(6)(a) F.S.
- POLICY 11.01C(2):** Hernando County shall identify methods to direct development to areas with adequate school capacity or to where school sites, adequate to serve potential growth have been acquired by the School Board, provided such location of the development is consistent with the Hernando County Comprehensive Plan.
- POLICY 11.01C(3):** In any instance where capacity will not be available to serve students to be generated by a development seeking approval and subsequent to the contiguous CSA analysis that demonstrates there is no available capacity, and proportionate share mitigation is not an option, the school capacity deficiency shall be a basis for denial of the proposal.
- POLICY 11.01C(4):** The School Board shall review potential new subdivision conditional plats and residential site plans for student generation impacts and available school capacity. Where capacity will not be available to serve students from the property seeking to increase residential density, and subsequent to the contiguous CSA analysis that demonstrates there is no available capacity, and proportionate share mitigation is not an option, the School Board shall not issue a favorable concurrency determination. The County shall use lack of school capacity demonstrated by an unfavorable concurrency determination as a reason for denial.
- POLICY 11.01C(5):** During the process of land use decision making, the County will ensure the compatibility of proposed land uses in the vicinity of either existing or planned public schools, and protect existing and planned schools from incompatible uses.

SCHOOL FACILITY SITING

- OBJECTIVE 11.01D: ENSURE THAT THE PLANNING AND CONSTRUCTION OF EDUCATIONAL FACILITIES ARE COORDINATED WITH REGARD TO TIMING, LOCATION,**

**COMPATIBILITY, AND THE AVAILABILITY OF
REQUIRED INFRASTRUCTURE.****POLICY 11.01D(1):**

The following issues will be considered by the School Board when evaluating potential new school sites or significant renovations of existing schools:

- (a) Site acquisition and development cost.
- (b) Compatibility of the school site with present and projected uses of adjacent properties.
- (c) Adequate public facilities and services to support the proposed school are available, or will be available, concurrent with the impacts of the school.
- (d) Safe access to and from the school site by pedestrians and vehicles.
- (e) The proposed location is not within a velocity flood zone (V-zone), floodway, or the Coastal High Hazard Area (CHHA) as delineated in the adopted comprehensive plan of the County.
- (f) The proposed location is not in conflict with local government stormwater management plans or watershed management plans.
- (g) The proposed site is well drained and soils are suitable for development, or are adaptable for development for educational purposes with identified drainage improvements.
- (h) The proposed location is not immediately adjacent to water treatment plants or wastewater treatment plants.
- (i) There are no significant environmental constraints that would preclude development of a public school on the site.
- (j) The proposed location lies outside the area regulated by s. 333.03, *Florida Statutes*, regarding

the construction of public educational facilities in the vicinity or flight path of the Hernando County Airport.

- (k) There will be no adverse impact on archaeological or historic sites listed in the National Register of Historic Places or designated by the affected local government as a locally significant historic or archaeological resource.
- (l) The proposed site can accommodate the required parking, circulation, and adequate queuing of vehicles onsite.
- (m) Whenever possible and where appropriate, existing schools will be expanded, renovated, or revitalized to support community redevelopment, in-fill development, and revitalization.
- (n) The location of schools, where possible, should be proximate to and within walking distance of the residential neighborhoods served.
- (o) The location and design of a proposed school in an area designated as "Rural" on the Future Land Use Map ("FLUM") of the County should predominately accommodate the student population living within said Rural area. Furthermore, in locating any school in a Rural area, the School Board will consider the following criteria:
 - i. The School Board has demonstrated a need for a school in the proposed Rural area.
 - ii. The School Board has made good faith effort to locate a suitable site within the currently developed urban areas of the County.
 - iii. The proposed site meets the other infrastructure and service needs contained in the Interlocal Agreement, dated August 7, 2006, or as subsequently amended.
 - iv. Placement of a school within said Rural area

provides the most cost effective alternative to meet the demonstrated need considering direct acquisition, infrastructure and site delivery costs(s) to local government(s) and other public infrastructure/service providers.

- v. The proposed school site is otherwise consistent with the adopted comprehensive plan of the County.

POLICY 11.01D(2): The School Board Staff will meet with and review potential school sites with planning staff of the County. The recommendations and comments from these meetings will be submitted to the School Board. The School Board will take the respective recommendations into consideration.

POLICY 11.01D(3): The County shall advise the School Board as to the consistency of the proposed new site with their adopted comprehensive plan, including the appropriate processes under which the School Board may request an amendment to the comprehensive plan for school siting. The consistency determination with the comprehensive plan is made through the development review process.

POLICY 11.01D(4): Within the County (unincorporated), schools are allowed as part of a “public service facility overlay district” within all zoning districts or as a special exception in certain zoning districts. The same procedures that apply to a standard re-zoning application also apply to designating an area a public service facility overlay district (*see* Appendix A to the County’s Code of Ordinances).

POLICY 11.01D(5): The decision of the Board of County Commissioners shall be the final local government action of any comprehensive plan amendment or re-zoning decision.

POLICY 11.01D(6): Where an identified school site requires re-zoning to accommodate a proposed school, the School Board shall provide written notice to all neighboring property owners of record as follows:

- (a) Proposed sites located within a “Rural” classification on the Future Land Use Map, all property owners of record within a 500' radius of the site shall receive written notification of the

proposed re-zoning request.

- (b) Proposed sites located in any other land use classification, all property owners of record within a 250' radius of the site shall receive written notification of the proposed re-zoning request.

POLICY 11.01D(7):

The submittal, processing and review of any proposed site design or development plan shall be filed with the Planning Department of the County and shall include at a minimum, the following:

- (a) Location, size, height, and use of all proposed structures;
- (b) Proposed or existing location of fire hydrants and distance to structures;
- (c) Location and method of buffering from adjacent residential zoning districts;
- (d) Location and method of storm water retention;
- (e) Location, size and total amount of recreation areas;
- (f) Location and dimensions of proposed parking and service areas; and,
- (g) Proposed means of vehicular and pedestrian access from site to adjacent streets and or alleys.

POLICY 11.01D(8):

The review and processing of any site design or development plan submitted by the School Board shall be in accordance with the adopted comprehensive plan of the County and all applicable land development regulations (noting that the School Board is exempt from certain regulations).

POLICY 11.01D(9):

The School Board and County shall cooperate in determining the need for and timing of on-site and off-site improvements necessary to support each new school or the proposed renovation or expansion of an exiting school.

POLICY 11.01D(10):

In conjunction with the School Board's approval of a new school site, the School Board and County will jointly

determine the need for and timing of on-site and off-site improvements necessary to support each new school.

COLLOCATION OF FACILITIES

OBJECTIVE 11.01E: COORDINATE LOCATION OF PUBLIC SCHOOL FACILITIES RELATIVE TO THE LOCATION OF OTHER PUBLIC FACILITIES SUCH AS PARKS, LIBRARIES AND COMMUNITY CENTERS TO THE EXTENT POSSIBLE.

POLICY 11.01E(1): The County will look for opportunities to collocate and share use of their facilities with the School Board when preparing the annual update to the adopted comprehensive plan’s schedule of capital improvements and when planning new, or renovating existing community facilities.

POLICY 11.01E(2): A separate agreement may be developed for each instance of collocation or shared use which addresses operating and maintenance costs, scheduling use of the facilities, facility supervision, legal liability, or any other issues that may arise from collocation or shared use.

POLICY 11.01E(3): Meeting the intent of Objective 11.01E to locate public school facilities in conjunction with other public facilities such as parks, libraries, and community centers, the County will promote public schools as focal points of the community.

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GOAL 11.02

TO ESTABLISH A PROCESS FOR THE IMPLEMENTATION OF SCHOOL CONCURRENCY THROUGH CAPACITY DETERMINATION STANDARDS, CONCURRENCY DETERMINATION PROCESS, AND PROPORTIONATE SHARE MITIGATION.

CAPACITY DETERMINATION STANDARDS

OBJECTIVE 11.02A: THE COUNTY SHALL COOPERATE WITH THE SCHOOL BOARD IN THE IMPLEMENTATION OF CAPACITY DETERMINATION STANDARDS.

- POLICY 11.02A(1):** The School Board will determine whether adequate school capacity exists for a proposed development, based on the Level of Service (LOS) standards, CSAs, and other standards as follows:
- (a) Calculate total school facilities by adding the capacity provided by existing school facilities except magnet/lottery schools to the capacity of any planned school facilities.
 - (b) Calculate available school capacity by subtracting from the total school facilities the sum of:
 - i. used capacity;
 - ii. the portion of reserved capacity projected to be developed within three (3) years;
 - iii. the portion of previously approved development projected to be developed within three (3) years; and
 - iv. the demand on schools created by the proposed development.

- POLICY 11.02A(2):** In determining whether there is sufficient school capacity to accommodate a proposed development in a specific CSA, the School Board will:
- (a) *Subject CSA.* Consider whether the CSA in which the proposed development is situated has available

school capacity, based on the formula in Policy 11.02A(1).

- (b) *Contiguous CSA*. If the projected student growth from a residential development causes the adopted LOS to be exceeded in the subject CSA, a contiguous CSA will be reviewed for available capacity. In conducting the contiguous review, the School Board shall first use the contiguous CSA with the most available capacity to evaluate projected enrollment and, if necessary, shall continue to the CSA with the next most available capacity until all contiguous CSAs have been evaluated or the available capacity has been identified to allow a determination letter approving school concurrency to be issued. If a contiguous CSA is identified having available capacity, then the actual development impacts shall be shifted to that CSA having available capacity (this shift shall be accomplished in accordance with School Board Policy and which may include, without limitation, appropriate boundary changes or shifting future student assignments).

POLICY 11.02A(3):

Except as provided in Policy 11.02A(4), school concurrency shall apply to all new residential development and uses that generate demands for public school facilities and are proposed or established after the effective date of the school concurrency ordinance (as adopted by the County). School concurrency shall not apply to non-residential uses such as commercial, industrial or mining.

POLICY 11.02A(4):

The following residential uses shall be considered exempt from the requirements of school concurrency.

- (a) Single family lots of record having received final plat approval (or otherwise deemed grand-fathered as a valid residential lot under the land development regulations of the County) prior to the effective date of the school concurrency ordinance (which applies to the given lot or lots).
- (b) Multi-family residential development having received final site plan approval prior to the effective date of the applicable school concurrency

ordinance.

- (c) Amendments to residential development approvals issued prior to the effective date of the adopted school concurrency ordinance, which do not increase the number of residential units or change the type of residential units proposed.

CONCURRENCY DETERMINATION PROCESS

OBJECTIVE 11.02B: THE COUNTY SHALL COOPERATE WITH THE SCHOOL BOARD IN THE IMPLEMENTATION OF THE CONCURRENCY DETERMINATION PROCESS.

POLICY 11.02B(1): The school concurrency ordinance to be adopted by the County will include, among other things, application procedures and processes for evaluating school capacity and making concurrency determinations

Following the adoption of the school concurrency ordinance, the County will:

- (a) accept and process final plats and residential site plans, only after the applicant has complied with the terms of its school concurrency ordinance. The County may approve a school concurrency application earlier in the approval process, upon request by the applicant, if the School Board reviews and approves the determination, allocations of capacity, and proportionate share mitigation commitments, as provided in this Element and the Growth Management Act.
- (b) upon receipt of a complete school concurrency application, timely transmit the application to the School Board for a determination of whether there is adequate school capacity, for each level of school, to accommodate the proposed development, based on the LOS standards, CSAs, and other standards set forth in this Element and the Interlocal Agreement between Hernando County, the City of Brooksville and the Hernando County School Board, dated August 7, 2006, as may be amended from time to time.

POLICY 11.02B(2): Within thirty (30) days of receipt of the initial transmittal the County, the School District will review the school concurrency application and, based on the standards set forth in this Element and the Interlocal Agreement between Hernando County, the City of Brooksville and the Hernando County School Board, dated August 7, 2006, as may be amended from time to time, and report in writing to the County:

- (a) whether adequate school capacity exists for each level of school, based on the standards set forth in this Element and the Interlocal Agreement between Hernando County, the City of Brooksville and the Hernando County School Board, dated August 7, 2006, as may be amended from time to time, and report in writing to the County; or
- (b) if adequate capacity does not exist, whether appropriate mitigation can be accepted, and if so, acceptable options for mitigation, consistent with this Element and the Interlocal Agreement between Hernando County, the City of Brooksville and the Hernando County School Board, dated August 7, 2006, as may be amended from time to time, and report in writing to the County

POLICY 11.02B(3): The School District shall conduct a concurrency review that includes findings and recommendations of whether there is adequate school capacity to accommodate students generated by the proposed development for each type of school within the affected CSA consistent with the adopted LOS standard and will take into consideration that:

- i. Adequate school facilities will be in place or under actual construction within three (3) years after the issuance of the subdivision plat or site plan (or functional equivalent); or,
- ii. Adequate school facilities are available in an adjacent CSA and the impacts of development can be shifted to that area; or,
- iii. The developer executes a legally binding commitment to provide mitigation

proportionate to the demand for public school facilities to be created by the actual development of the property subject to the final plat or site plan (or functional equivalent) pursuant to this Interlocal Agreement and the adopted School Concurrency Ordinance.

- POLICY 11.02B(4):** If the impact of the proposed development will not occur until years 2 or 3 of the School Board's financially feasible work plan, then any relevant programmed improvements in those years shall be considered available capacity for the project and factored into the level of service analysis. If the impact of the project will not be felt until years 4 or 5 of the work plan, then any relevant programmed improvements shall not be considered available capacity for the project unless funding of the improvements is assured through School Board funding to accelerate the project, through proportionate share mitigation, or some other means.
- POLICY 11.02B(5):** If the School District determines that adequate capacity does not exist but that mitigation is an acceptable alternative, the development application will remain active pending the conclusion of the mitigation negotiation period described in Objective 11.02C and associated policies.
- POLICY 11.02B(6):** The County will issue a School Concurrency Determination only upon:
- (a) the School District's written determination that adequate school capacity will be in place or under actual construction within three (3) years after the issuance of final subdivision or site plan approval for each level of school without mitigation; or,
 - (b) the execution of a legally binding mitigation agreement between the applicant, the School Board and Hernando County pursuant to the Interlocal Agreement.

PROPORTIONATE SHARE MITIGATION

OBJECTIVE 11.02C: THE COUNTY SHALL COORDINATE WITH THE SCHOOL BOARD TO ESTABLISH PROPORTIONATE

SHARE MITIGATION ALTERNATIVES WHICH ARE FINANCIALLY FEASIBLE AND WILL ACHIEVE AND MAINTAIN THE ADOPTED LEVEL OF SERVICE STANDARDS CONSISTENT WITH THE ADOPTED CAPITAL IMPROVEMENTS PLAN.

POLICY 11.02C(1):

In the event that the School Board reports that mitigation may be accepted in order to offset the impacts of a proposed development, where the LOS standards set forth in this Interlocal Agreement otherwise would be exceeded, the following procedure shall be used.

- (a) The applicant shall initiate in writing a mitigation negotiation period with the School Board in order to establish an acceptable form of mitigation, pursuant to s. 163.3180(c), *Florida Statutes*, the adopted School Concurrency Ordinance, and this Element.
- (b) Acceptable forms of mitigation may include:
 - i. The donation, construction, or funding of school facilities sufficient to offset the demand for public school facilities to be created by the proposed development.
 - ii. The creation of mitigation banking based on the developer's construction and/or financing of a public school facility in exchange for the right to sell excess capacity credits (the selling of excess credits shall be limited to that area within the subject CSA or any abutting CSA) and as may be further limited by the school concurrency ordinance.
- (c) The following standards apply to any mitigation accepted by the School Board:
 - i. Relocatable classrooms will not be accepted as mitigation.
 - ii. Mitigation shall be directed to projects on the School Board's financially feasible 5 year work plan that the School Board agrees will satisfy the demand created by that

development approval, and shall be assured by a legally binding development agreement between the School Board, the County, and the applicant. The development agreement shall be executed prior to the issuance of the applicable subdivision plat, site plan or functional equivalent in the development review process.

- iii. The Student Generation Formula used for calculating mitigation shall be as follows:

Number of Student Stations (by school type) = Number of Dwelling units (by housing type) x Student Generation Multiplier (by housing type and school type)*

[* Student Generation Multipliers shall be based upon the best available data and professionally accepted methodology]

- iv. Cost per Student Station estimates shall include, at a minimum, all costs of providing instructional and core capacity including land, site improvements, design, buildings, equipment, furniture, and costs of financing (if applicable). The capital costs associated with transportation of students shall not be included in the Cost per Student Station estimate used for mitigation.

- v. The proportional mitigation share amount shall be calculated as follows:

Proportionate Share Amount = Number of Student Stations (by school type) x Cost per Student Station (by school type)**

[The above formula shall be calculated for each housing type within the proposed development and for each school type**

(elementary, middle, high) for which a capacity deficiency has been identified. The sum of these calculations shall be the proportionate share amount for the development under review.]

- vi. Finally, if the School Board agrees to the mitigation, the School Board must commit to adding the improvement required for mitigation to its work plan. Further, the development agreement shall include the landowner's commitment to continuing renewal of the development agreement upon its expiration.
- (d) In accordance with this Element, s. 163.3180(13)(e), *Florida Statutes*, and Rule 9J-5.025, Florida Administrative Code, the applicant's total proportionate-share mitigation obligation to resolve a capacity deficiency shall be based on the following formula, for each school level:
- i. Multiply the number of new student stations required to serve the new development by the average cost per student station.
 - ii. The average cost per student station shall include school facility development costs and land costs.
 - iii. The applicant's proportionate-share mitigation obligation will be credited toward any other impact fee or exaction imposed by local ordinance for the same need (*see s. 163.3180(13)(e)(2), Florida Statutes*).
- (e) If within 90 days of the date the applicant initiates the mitigation negotiation period, the applicant and the School Board are able to agree to an acceptable form of mitigation, a legally binding mitigation agreement shall be executed by the applicant, the School Board and the County which sets forth the terms of the mitigation, including such issues as the amount, nature, and timing of donations,

construction, or funding to be provided by the developer, and any other matters necessary to effectuate mitigation in accordance with this Element. The mitigation agreement shall specify the amount and timing of any impact fee credits or reimbursements, if any, that the developer expects to receive in connection with its mitigation payment/donation under said agreement.

- (f) If, after 90 days, the applicant and the School Board are unable to agree to an acceptable form of mitigation, the School Board will report an impasse to the County in writing and the County will not issue a School Concurrency Determination for the proposed development.
- (g) The School Board may grant up to two (2) ninety 90-day extensions to the mitigation negotiation period.
- (h) To the extent required under Florida law, mitigation must be proportionate to the demand for public school facilities to be created by the actual development of the property.

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End of Chapter 15