SECTION 2001. **Purpose.** The purpose of this Chapter is to describe the requirements and procedures necessary to implement the concurrency provisions of the Bay County Comprehensive Plan and the Florida Administrative Code. This Chapter is intended to ensure the availability of public facilities and services and the adequacy of those facilities at adopted levels of service concurrent with the impacts of development. Specifically, concurrency requirements shall apply to:

1. Sanitary sewer, solid waste, drainage and potable water.
2. Parks and recreation.
3. Transportation facilities, including roads and public transit.

SECTION 2002. **Certificate of Concurrency Required.** A Certificate of Concurrency shall be required in conjunction with the issuance of any Development Order. Pursuant to Policy 11.6.3 of the Comprehensive Plan, no development order or permit shall be issued in a manner that will result in a reduction below the adopted levels of service found in the Bay County Comprehensive Plan.

SECTION 2003. **Adopted Levels of Service.** The adopted level of services (LOS) standards are those contained in the Bay County Comprehensive Plan, and are indicated in Table 20.1.

<table>
<thead>
<tr>
<th>LOS Standard</th>
<th>Comprehensive Plan Policy</th>
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<tr>
<td>Sanitary Sewer</td>
<td>5B.8.1, 11.6.1(2), 11.12.1</td>
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<td>Solid Waste</td>
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<td>Public Transit</td>
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SECTION 2004. **Initial Determination of Concurrency.** At the request of the applicant or at the discretion of the Planning Official, an initial determination of concurrency may be performed prior to the issuance of any Development Order and a Conditional Certificate of Concurrency issued. This Conditional Certificate of Concurrency shall not be binding on the County. Only those Certificates of Concurrency issued in conjunction with Development Orders shall be binding.

SECTION 2005. **Burden of Proof.** The burden of showing compliance with the adopted levels of service and meeting the concurrency evaluation shall be upon the
applicant, the Planning Official or his/her designee will assist in the preparation of the necessary documentation and information.

SECTION 2006. **De Minimus Exceptions.** If a proposed development relates to land use of such a low intensity as to have a de minimus effect pursuant to Section 163.3180(6), F.S., if any, upon the level of service standards set forth in the Bay County Comprehensive Plan, the development shall be exempt from concurrency review.

The following development activities shall be deemed de minimus and are exempt from concurrency review:

1. Room additions to single family residences;
2. Construction of accessory structures;
3. Construction of signs;
4. Co-locations of communications towers; and
5. Replacement of structures destroyed by fire, hurricanes, tornadoes, or other acts of God not exceeding the area and cubic content of the structure prior to its destruction.

SECTION 2007. **Allocation of Capacity.** Capacity shall be allocated upon issuance of a development order. The allocation of capacity shall be subject to the following sunset provisions:

1. Capacity approved and assigned to a development order will remain allocated until the development order expires, or until the development receives a Certificate of Occupancy, whichever occurs first. In the instance the development order expires, capacity shall be lost at the expiration of the development order, and a new Certificate of Concurrency must be attained once the development order has expired.
2. Capacity for a Planned Unit Development or a Development of Regional Impact shall remain allocated until such time as established by an enforceable development agreement.

SECTION 2008. **Concurrency Review Submittal Requirements.** Bay County shall use the procedures listed below to determine compliance of an application for a Development Order with this concurrency management system. At the time of application for a Development Order, a concurrency evaluation shall be made to determine the availability of the facilities or services required to be concurrent prior to the issuance of the Development Order. An application for a Development Order shall provide the County with all information required to conduct the concurrency evaluation. Upon receipt of the Development Order Application, the Planning Official or his/her
designee shall perform the concurrency evaluation or review for each of the public facilities and services for which level of service standards have been determined. The review period for issuance of a Certificate of Concurrency shall not begin until such time as the Planning Official has deemed the application complete.

The following information is required for submittal to determine if adequate capacity exists concurrent with the proposed development.

1. **Sanitary Sewer.** The applicant for a development order or a building permit shall submit proof that sufficient capacity exists as demonstrated by one of the following.
   a. If the proposed service provider is other than on-site septic 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, at or above the adopted level of service. If the ability of the provider to serve a proposed project is contingent upon planned facility expansion, details regarding such planned improvements shall also be submitted. Prior to the issuance of a final development order or building permit by the County, the applicant may be required to provide evidence of a contract with the provider indicating the provider’s commitment and responsibility to serve the proposed project; or,
   b. All applicable Florida Department of Health permits for an on-site septic system, pursuant to 10D-6, F.A.C. are obtained.

2. **Solid Waste.** The available capacity for solid waste shall be assessed and a determination made as to whether the available capacity exists for project demand. The applicant will rely on the concurrency annual report or the annual Steelfield Landfill Remaining Life and Capacity Report establishing the projected available capacity.

3. **Drainage.** In concert with an application for a development order, the applicant shall submit proof that sufficient capacity exists as demonstrated by the following.
   a. All applicable Florida Department of Environmental Protection (DEP) permits for stormwater management systems, pursuant to 62-25, F.A.C. are obtained; and/or,
   b. All applicable Florida Department of Transportation permits for drainage connections, pursuant to 14-86, F.A.C. are obtained; and/or,
c. All applicable Northwest Florida Water Management District permits, pursuant to § 373.451 – 373.4595, F.S. (the Surface Water Improvement “SWIM” Act), are obtained.

d. Review and approval from the County Public Works Department.

4. Potable Water. In conjunction with an application for a development order or building permit, the applicant shall submit proof that sufficient capacity exists as demonstrated by one of the following.

a. If the service provider to the proposed development is a local government other than Bay County, 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, at or above the adopted level of service.

If the ability of a provider to serve a proposed project is contingent upon planned and funded facility expansion, detail regarding such planned improvements shall be submitted. Prior to the issuance of a final development order by the County, the applicant 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; or

b. If the service provider is a private organization or agency, documentation shall be provided to the County to verify the provider has the capacity to serve the project at or above the Bay County adopted level of service.

c. Permits issued by the Northwest Florida Water Management District for a potable water well to serve the development.

5. Parks and Recreation. The available capacity for recreation and open space shall be assessed, and a determination made as to whether the available capacity exists for projected demand for the current year. The applicant will rely on the comprehensive plan data or any report, which may include the Strategic Plan, prepared by the director of parks and recreation establishing projected available capacity.

6. Transportation Facilities. The evaluation for roads shall compare the existing level of service standards to the adopted level of service standards established by the Comprehensive Plan for the impacted roads, pursuant to 9J-5.0055(a), F.A.C., as amended. The evaluation shall address the need for new facilities and expansions of alternative transportation modes to provide a safe and efficient transportation network and enhance mobility.
A transportation study shall be required if the proposed development meets any of the following criteria. The transportation study shall follow the requirements of Section 2008 (7).

a. The project or proposed development is determined to have impacts to any facility that is currently at or within ten (10) percent of the adopted level of service maximum volume.

b. The project or proposed development is projected to generate 100 or more peak-hour trips.

c. The project or proposed development meets any of the thresholds listed as 100 peak-hour trips in Table 1 of the Site Impact Handbook as produced by the Department of Transportation.

7. Transportation Study. A transportation study prepared by a Florida licensed Traffic Engineer shall be required if the proposed development is determined to meet any of the criteria specified in Section 2008 (6). The following requirements relate to required transportation studies:

a. County Review. Bay County shall apply a concurrency evaluation to the subject property based on professionally acceptable trip generation characteristics as found in the most current edition of Trip Generation, published by the Institute of Transportation Engineers.

b. Application Meeting. An application meeting between the County and the applicant is required. The purpose of this meeting will be to review the methodology and procedure, and to determine the study area and study period.

c. Define Study Area. The study area is defined as the primary impact area affected by traffic associated with the site. A study area will be established based on the average trip length associated with the land use, as set forth in the trip generation characteristics for that land use as approved by the County. The primary impact area will be approved by the County at the application meeting.

d. Existing Conditions. The following existing conditions shall be provided by the applicant:

i. Existing peak hour traffic volumes and level of services standards for all collectors and arterials within the study area.
ii. Existing turning movement at the impacted intersection(s) and intersection(s) level of service.

e. Sources of Data. The required data shall be the most recent available. Traffic volumes shall be adjusted to reflect annual conditions using current FDOT seasonal adjustment factors approved by the County unless the project or proposed development is located within a tourist corridor, as defined at the application meeting. If so, then volumes shall be adjusted to thirteen (13) week peak season.

i. The required level(s) of service for roadways shall be determined in accordance with the adopted level(s) of service given in the Transportation Element of the Comprehensive Plan. Specifically, the methodologies provided in the most recent edition of the FDOT publication titled, Florida’s Level of Service Standards and Guidelines Manual for Planning. The County shall adopt the LOS standards established by the DOT for facilities on the Florida Intrastate Highway System as defined in § 338.011, F.S.

ii. The required intersection capacity(ies) shall be based on the most recent edition of the Highway Capacity Manual, Special Report 209, as published by the Transportation Research Board.

f. Projection of Future Roadway Traffic. Traffic volume(s) shall be projected for each development phase including the year of project completion. Volumes can be determined using one of the following procedures:

i. Multiplying existing volumes by the annual growth factor provided by the County. Traffic generated by any major project approved since the traffic counts were conducted shall be used as background traffic data.

ii. Multiplying existing volumes by an annual growth factor developed by the applicant and approved by the County. Traffic generated by any major project approved since the traffic counts were conducted shall be included as background traffic.

iii. Using projections from an area modeling effort, when applicable.
iv. Methodology regarding projections of intersection(s) turn movements and level of service shall be established during the application meeting.

g. **Projection of Traffic Generation.** The following procedures shall be provided:

i. To determine project traffic generation, the current edition of Trip Generation as published by the Institute of Traffic Engineers (ITE) shall be used, or trip rates may be obtained from studies of comparable sites or standards adopted by the County.

ii. Identify all land uses, density and intensity of development and trip rates.

iii. Any proposed reduction for internal capture of trips between Land uses of a mixed-use project or for passerby trips shall be provided by the applicant at the application/methodology meeting and shall be approved by the County.

iv. Accident data, when required by the County.

h. **Projection and Traffic Distribution/Assignment.** Project traffic distributions shall be based on reasonable and acceptable industry assumptions and methodologies as applied to the individual site(s) conditions to be approved by the County during the application-methodology meeting.

i. **Transportation System Management Strategies.** A discussion of any proposed transportation system management strategies shall be included in the study.

**SECTION 2009. Minimum Requirements for Certificate of Concurrency.** In order to obtain a Certificate of Concurrency, the following conditions must be satisfied for each of the public facilities and services, and such condition given in the Certificate of Concurrency. For each system, a Certificate of Concurrency may be issued if the necessary facilities and services are in place at the time a development order or permit is issued, or the following is demonstrated:

1. **Sanitary Sewer.** Proposed development services must fall within the capacity of the Bay County Wastewater Treatment Plant.

   a. For purposes of evaluation the LOS is 90% of 626,858 gallons per day (564,172 GPD), Bay County’s allocation in the Military Point Advanced Wastewater Treatment Facility.
b. For purposes of evaluating available capacity for concurrency the remaining available capacity shall be the difference between 564,172 GPD and the average daily flow calculated using the last 3 month rolling average report.

c. For areas where central sewer service is not available, concurrency requirements may be by the issuance of an “on-Site Sewage Disposal” (septic tank) permit pursuant to Chapter 10D-6, F.A.C., or by construction of a package plant, and will require permits from HRS and DEP, when applicable.

d. For purposes of estimating potential sewage flows the LOS will be 280 gallons per household per day, or Equivalent Residential Units (ERU).

e. For areas serviced by a local government other than Bay County, verification from the local government that sufficient capacity exists for the development shall be required prior to the issuance of a Certificate of Concurrency.

f. The necessary facilities and services to serve the new development shall be in place at the time a development order or permit is issued for the subject project unless funds are escrowed to construct on-site and/or off-site improvements as needed to maintain the LOS and those improvements are within a 5 year capital improvement schedule.

g. The necessary facilities and services may be guaranteed in an enforceable development agreement that includes the provisions of Subsection d. above. Enforceable development agreements shall follow the provisions of Section 163.3220, F.S., as amended. The agreement must guarantee that the necessary facilities and services will be in place when the impacts of the development occur.

2. **Solid Waste.** Proposed solid waste services must fall within the capacity of the Bay County landfill. Capacity shall be determined as follows.

a. For purposes of evaluating proposed development services, the demand shall be calculated as 5.5 pounds per capita per day.

b. For purposes of evaluating available capacity for concurrency and capital improvements, the LOS shall be 80% of the total capacity of the Steelfield Landfill, or when 123 acres of the 154-acre Steelfield Landfill site are filled.
c. The necessary facilities and services to serve the new development shall be in place at the time a development order or permit is issued for the subject project.

d. The necessary facilities and services may be guaranteed in an enforceable development agreement that includes the provisions of Subsection d. above. Enforceable development agreements shall follow the provisions of 163.3220, F.S., as amended. The agreement must guarantee that the necessary facilities and services will be in place when the impacts of the development occur.

3. Drainage. The drainage level of service standards shall be met if the application includes certification that a stormwater management plan will be submitted and detailed within construction plans prepared by a registered and licensed professional engineer in the State of Florida documenting the plan meets or exceeds the adopted level of service standard. The standards to be certified are:

a. The retention or detention of the first one-half-inch of runoff on-site;

b. That the post development runoff rate will not exceed the predevelopment runoff rate for a 25-year storm event, up to and including an event with a 24-hour duration;

c. Use of the criteria established in 62-25, F.A.C., in its entirety (including exemptions).

d. That the contribution of the new development to any existing, functioning area-wide drainage system will not degrade the ability of the area-wide system to adequately retain/detain/store and control stormwater runoff.

e. The necessary facilities and services to serve the new development shall be in place at the time a development order or permit is issued for the subject project.

f. The necessary facilities and services may be guaranteed in an enforceable development agreement that includes the provisions of Subsection d. above. Enforceable development agreements shall follow the provisions of 163.3220, F.S., as amended. The agreement must guarantee that the necessary facilities and services will be in place when the impacts of the development occur.
NOTE: For the purposes of this provision, "on-site" includes any area within an approved subdivision (or subdivision to be approved) or any area within two or more parcels subject to a joint use agreement or shared facilities agreements. Possession of a valid DEP stormwater permit is deemed to satisfy the requirements of subparts a. and c., above.

4. **Potable Water.** Potable water level of service concurrency requirements shall be satisfied when the following level of service standards are met, and the required facilities and/or services are installed.

   a. For purposes of evaluation the LOS is 90% of the current rated water treatment plant capacity (currently 35 MGD).

   b. For purposes of evaluating available capacity for concurrency, the remaining available capacity shall be the difference between 90% of the current rated capacity and the average daily demand in the peak month during the previous 24 months.

   c. For review purposes, the LOS is 350 gallons per ERC per day, where 350 gallons per day is based on 60 plumbing fixture units as defined in Board Resolution 2386 adopted January 8, 2002.

   d. For areas where central water service is not available, concurrency requirements may be satisfied by private or individual water wells, or private community water systems. Permits from the Northwest Florida Water Management District must be provided.

   e. The necessary facilities and services to serve the new development shall be in place at the time a development order or permit is issued for the subject project unless funds are escrowed to construct on-site and/or off-site improvements as needed to maintain the LOS and those improvements are within a 5 year capital improvement schedule.

   f. The necessary facilities and services may be guaranteed in an enforceable development agreement that includes the provisions of Subsection e. above. Enforceable development agreements shall follow the provisions of 163.3220, F.S., as amended. The agreement must guarantee that the necessary facilities and services will be in place when the impacts of the development occur.

5. **Parks and Recreation.** The availability capacity of parks and recreation shall be assessed, and a determination shall be made as to whether the availability of capacity exists for projected demand for the current year.
The applicant will rely on the annual concurrency report and the following standards and requirements.

a. For the purposes of evaluation, the LOS standards shall be those adopted in Policies 9.7.1 and 11.6.1 of the Comprehensive Plan.

b. Parks and recreation facilities to serve new development shall be in place or under actual construction no later than 1 year after issuance of a certificate of occupancy or its functional equivalent. However, the acreage of such facilities shall be dedicated or be acquired by the local government prior to issuance by the local government of a certification of occupancy or its functional equivalent, or funds in the amount of the developer's fair share shall be committed prior to issuance by the local government of a certificate of occupancy or its functional equivalent.

6. Transportation Facilities. The evaluation for roads shall compare the existing level of service standards to the adopted level of service standards established by the Comprehensive Plan for the impacted roads pursuant to 9J-5.0055(a), F.A.C, as amended. The concurrency requirement may be satisfied by complying with the following standards.

a. At the time a Certificate of Concurrency is issued, the necessary facilities and services are in place or under construction; or

b. A Certificate of Concurrency may be issued subject to the conditions that the necessary facilities and services needed to serve the new development are scheduled to be in place or under actual construction not more than three years after issuance of a certificate of occupancy or its functional equivalent as provided in the adopted capital improvement program. The schedule of capital improvements may recognize and include transportation projects included in the first three years of the applicable adopted FDOT five-year work program. The capital improvements element must include the requirements set in 9J-5.0055(3)(c)(2) F.A.C., as amended.

i. The capital improvements element and 5-year schedule of capital improvements which, in addition to meeting all of the other statutory and rule requirements, must be financially feasible. The capital improvements element and schedule of capital improvements may recognize and include transportation projects included in the first three years of the applicable adopted FDOT five-year work program.
ii. A 5-year schedule of capital improvements which must include both necessary facilities to maintain the adopted level of service standards to serve the new development proposed to be permitted and the necessary facilities required to eliminate those portions of existing deficiencies which are priority to be eliminated during the 5-year period under the Bay County Comprehensive Plan’s schedule of capital improvements.

iii. A realistic, financially feasible funding system based on currently available revenue sources which must be adequate to fund the public facilities required to serve the development authorized by the development order and development permit and which public facilities are included in the 5-year schedule of capital improvements.

iv. A 5-year schedule of capital improvements which must demonstrate that the actual construction of the road or mass transit facilities and the provision of services must be scheduled to commence in or before the third year of the 5-year schedule of capital improvements.

c. The requirements of 9J-5.0055(3)(c) F.A.C., as amended are met.

SECTION 2010. Expiration of Certificate of Concurrency. A certificate of Concurrency shall automatically expire simultaneously with the expiration of the Development Order to which it applies. In the event that the Development Order does not have a specified expiration date, the Certificate of Concurrency shall expire six (6) months after the date of issuance of the Development Order. In the event that a time extension is granted prior to the expiration of the Development Order, then the accompanying Certificate of Concurrency shall be automatically renewed for the duration of the extension given to the accompanying Development Order. Should the extension exceed one (1) year from the date of issuance of the initial Development Order, a new concurrency review shall be performed.

SECTION 2011. Exceptions to Concurrency Requirements. For the purpose of issuing a development order or permit, a proposed development may be deemed to have a de minimus impact and may not be subject to the concurrency requirements of Rule 9J-5.0055(3)(c) 1-4, only if all of the conditions specified in subsection 163.3180(6), F.S., are met. Additionally, concurrency requirement shall not apply to the following.

1. Pursuant to Subsection 163.3180 (4)(c) F.S., the concurrency requirement, except as it relates to transportation facilities, may be waived by the County for urban infill and redevelopment areas designated pursuant to Subsection 163.3187(3)(a). Bay County may grant an
exception to concurrency of transportation facilities if the requirements of Subsection 163.3180 (5)(b) are met.

2. The County will not require a development to meet transportation concurrency if the requirements of Subsection 163.3180 (11) have been met.

SECTION 2012. Strategies to Rectify Lack of Concurrency. Should a development not pass the above concurrency evaluation, one or all of the strategies below may be used to rectify this,

1. An enforceable development agreement between the County and the developer, which may include, but is not limited to, development agreements pursuant to Section 163.3220, F.S.

2. A reduction in the scale or impact of the proposed development.

3. Phasing of the proposed development.

SECTION 2013. Monitoring.

1. Annual Report. The Concurrency Management Report is required as a system for monitoring and ensuring adherence to the adopted level of service standards, the schedule of capital improvements, and the availability of public facilities.

2. Contents. Bay County shall prepare an annual report as part of the Concurrency Management System that includes:

a. A summary of actual development activity, including a summary of certificates of occupancy, indicating quantity of development represented by type and square footage.

b. A summary of building permit activity, indicating:

i. Those that expired without commencing construction;

ii. Those that are active at the time of the report;

iii. The quantity of development represented by the outstanding building permits;

iv. Those that result from the development permits issued prior to the adoption of this Code; and
v. Those that result from development permits issued pursuant to the requirements of this Code.

c. A summary of development orders issued, indicating:

i. Those that expired without subsequent development permits;

ii. Those that are valid at the time of the report;

iii. The phases and quantity of development represented by the outstanding development permits.

d. An evaluation of each facility and service indicating the following. This is not an all inclusive list, but shall be deemed as a guideline for use in the concurrency management system.

i. Existing and adopted levels of service for each facility.

ii. The capacity available for each facility at the beginning of the reporting period and the end of the reporting period;

iii. The portion of the available capacity held for approved development orders.

iv. A comparison of the actual capacity to calculated capacity resulting from approved development orders and development permits over the previous year.

v. A comparison of actual capacity and level of service to adopted levels of service from the Bay County Comprehensive Plan.

vi. A forecast of the capacity for each based upon the most recently updated schedule of capital improvements in the Capital Improvements Element of the Comprehensive Plan.

vii. Projects funded within the Capital Improvements Plan to expand any deficient facilities, or transportation projects funded through the Panama City MPO.

viii. Existing recreation and open space facilities, and those funded within the Capital Improvements Plan.

The Concurrency Management Report shall be due to the Board of County Commissioners by December of each year, reporting on the
previous fiscal year activity. It shall be used in part or the purpose of determining level of service capacities during the twelve (12) months following the presentation and/or adoption of the annual report to the Board of County Commissioners.

SECTION 2014. Assurances. The County shall make available suitable land for the building and expansion of service facilities, and shall require the future land uses be assured of adequate infrastructure and services. The County shall conduct an ongoing review and analysis of the infrastructure and services to meet the needs of future land uses adopted in the Bay County Comprehensive Plan. Development shall be required to provide such lands by dedication where appropriate.

SECTION 2015. Appeals. Appeals related to determinations of concurrency shall be made pursuant to the provisions in Section 209 of this Code.