

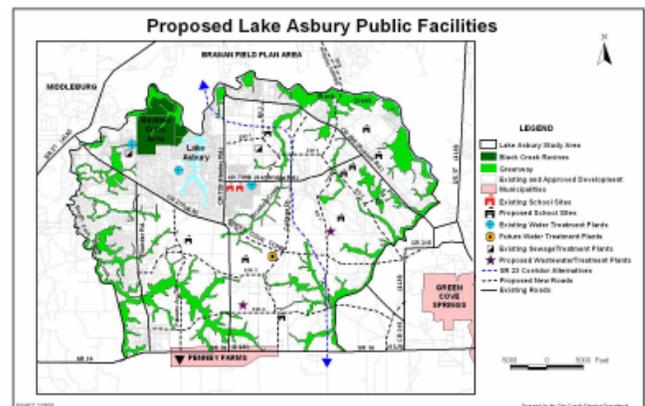
## Concurrency

The Unified Development Code of New Castle County, Delaware, requires that the facilities and infrastructure needed to support development—that the roads, sewers, emergency services, libraries and parks be in place before or at the same time that new development occurs. “Concurrency,” as this is often called, can be an effective way for local governments to help to ensure that new growth does not overwhelm the existing or planned facilities. The county also worked with the State of Delaware to define growth areas and agree on infrastructure improvements to increase efficiency and coordinate funding.<sup>1</sup>

Concurrency requirements (also called adequate public facilities requirements) are a growth management concept intended to ensure that the necessary public facilities and services are available concurrent with the impacts of development. Concurrency requirements are intended to protect existing residents from declining levels of service, overloaded facilities, and increasing debt resulting from the demands of growth. To carry out concurrency, local governments must define what constitutes an adequate level of service as well as measure whether the service needs of a new development exceed existing capacity and any scheduled improvements in the capital improvements program for that period. If adequate capacity is not available, then the developer must provide the necessary facility or service improvements to proceed or, provide a monetary contribution toward such improvements or, wait until

government provides the necessary improvements.<sup>2</sup>

Concurrency requirements can cover any number of required public services or facilities as specified by the state or local government. Some of the services and facilities typically required include roads, police services, fire protection services, schools, parks, mass transit facilities, water services, sewer services, and solid waste removal. Concurrency requirements can include specified public services and facilities of concern to the local or state government enacting the requirements.<sup>3</sup>



Enabling legislation expressly providing authority to implement an Adequate Public Facilities Ordinance (APFO) is rare. Maryland is the only state with specific APFO enabling legislation.

<sup>1</sup> New Castle County Department of Land Use. *How New Castle County Practices Smart Growth*. Available from: <http://www.co.new-castle.de.us/landuse/home/fileuploads/images/smart%20growth%202.pdf>

<sup>2</sup> State of Florida, Department of Community Affairs. September 2006. *Transportation Concurrency Requirements and Best Practices: Guidelines for Developing and Maintaining: An Effective Transportation Concurrency Management System*. Online. Available from: [www.dca.state.fl.us/GrowthManagement2005/TCBP.pdf](http://www.dca.state.fl.us/GrowthManagement2005/TCBP.pdf)

<sup>3</sup> Kramer, Michelle and Ann Livingston. 2001. *Colorado Sprawl Action Center's Growth Management Toolkit*. Denver, CO: CoPIRG. Additionally Online. Available from: [www.copirg.org/sprawlaction/toolkit/index.html](http://www.copirg.org/sprawlaction/toolkit/index.html)

However, some states derive land use authority directly from the state constitution, such as Florida and Washington. A limited number of states require concurrency at the state level by prohibiting development that would have a negative effect on defined public services.<sup>1</sup>

Montgomery County, MD, has had an adequate public facilities system since 1974. The system was established with a requirement that all development proposals pass two tests of transportation facilities adequacy. The first test, called the Policy Area Transportation Review, analyzed the effect of growth on the overall road system. If the growth in population or jobs could be accommodated with existing roadway capacity, bus, or rail, then development could be permitted. The second test is the Local Area Transportation Review, which measures level of service at local intersections, and requires certain standards be met before development is approved.<sup>2</sup>

There are seven major objectives of a concurrency system, to<sup>3</sup>

1. Link the provision of key public facilities and services with the type, amount, location, density, rate and timing of new development.
2. Properly manage growth and development so it does not outpace the ability of service providers to accommodate the development at the established level of service standards.
3. Coordinate public facility and service capacity with the demands of new development.
4. Discourage sprawl and leapfrog development patterns and to promote more infill development and redevelopment.

5. Encourage types of development patterns that use infrastructure more efficiently, such as New Urbanism or Transit-Oriented Development.
6. Require that the provision of public facilities and service to new development does not cause a reduction in the levels of service provided to the existing residents.
7. Provide an approach for providing necessary infrastructure for new residents.

Communities choosing to implement concurrency requirements must first determine which public services will be governed by the ordinance. A level of service standard (LOS) is then established for each public service included in the ordinance. The LOS determination creates an objective standard for evaluating the impact each unit of demand places on the municipality's infrastructure. The city/town then examines the demand placed on its infrastructure by existing development. Before new development can proceed, the developer must show the existing infrastructure can support the demand at the level of service standard established by the ordinance. If capacity exists, the project receives an adequacy permit and the development is allowed to move forward. When a particular development is denied an adequacy permit, it is placed on hold until infrastructure is available.<sup>4</sup>

### Additional Resources

Weitz, Jerry. "Concurrency: Evolution and Impacts of an Infrastructure and Growth Management Policy." *Public Works Management & Policy*, Vol. 2, No. 1, 51-65 (1997)

Kramer, Michelle and Ann Livingston. 2001. "Public Service Concurrency." In *Colorado Sprawl Action Center's Growth Management Toolkit*. Denver, CO: CoPIRG. Additionally Online. Available from: [www.copirg.org/sprawlaction/toolkit/index.html](http://www.copirg.org/sprawlaction/toolkit/index.html)

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<sup>1</sup> Ott, Steven H. and Dustin C. Read. 2006. *Adequate Public Facilities Ordinances in North Carolina: A Legal Review*. Available from: [www.naiop.org/foundation/apfonlegal.pdf](http://www.naiop.org/foundation/apfonlegal.pdf)

<sup>2</sup> Spokane Regional Transportation Council. 2006. *Regional Transportation Concurrency System in Spokane County A Feasibility Study*. Available from: [www.wsdot.wa.gov/NR/rdonlyres/3B4C1B32-4E45-4E5D-ADB6-](http://www.wsdot.wa.gov/NR/rdonlyres/3B4C1B32-4E45-4E5D-ADB6-ABA6EC5321EF/0/TechnicalMemo_2LiteratureReview.pdf)

[ABA6EC5321EF/0/TechnicalMemo\\_2LiteratureReview.pdf](http://www.wsdot.wa.gov/NR/rdonlyres/3B4C1B32-4E45-4E5D-ADB6-ABA6EC5321EF/0/TechnicalMemo_2LiteratureReview.pdf)

<sup>3</sup> White, M.S., and Paster, E.L. 2003. "Creating effective land use regulations through concurrency." *Natural Resources Journal* 43, 3: 753-79.

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<sup>4</sup> Ott, Steven H. and Dustin C. Read. 2006. *Adequate Public Facilities Ordinances in North Carolina: A Legal Review*. Available from: [www.naiop.org/foundation/apfonlegal.pdf](http://www.naiop.org/foundation/apfonlegal.pdf)