

CHAPTER EIGHT
CONCURRENCY MANAGEMENT

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8000. FINDINGS AND INTENT

The BCC finds and determines that:

- A. The requirements and standards of this chapter are necessary for the health, safety and welfare of the citizens of Citrus County and the protection of the environment and natural resources of Citrus County.
- B. It is the intent of the BCC to implement the goals, objectives and policies adopted in the Citrus County Comprehensive Plan.
- C. It is the intent of the BCC that necessary public facilities and services be available concurrent with the impacts of development.
- D. It is the intent of the BCC that final development orders and permits be issued in a manner which does not result in a reduction of any levels of service below the adopted level of service standards in the Citrus County Comprehensive Plan.
- E. It is the intent of the BCC to adhere to and implement the schedule of capital improvements in the Citrus County Comprehensive Plan and other capital improvements as necessary to maintain the adopted level of service standards in the Citrus County Comprehensive Plan.
- F. It is the intent of the BCC to adopt a concurrency management system in furtherance of the public benefit while at the same time ensuring that all property owners have a reasonable, beneficial and economic use of their property and that no property is taken without just compensation.

8100. APPLICABILITY

- A. The regulations set forth herein shall apply to all lands and waters within the unincorporated areas of Citrus County, Florida and subject to the jurisdiction of the BCC. No final development order or final development permit shall be issued unless in accordance with the provisions of this chapter. In order to develop land, the requirements of this chapter shall be met and the procedures set forth herein shall be followed.
- B. This chapter is supplemental to and does not supersede any applicable state statutes and regulations.
- C. This chapter will prevail and supersede any other Citrus County ordinances with provisions that are inconsistent with the provisions of this chapter.

8200. DEFINITIONS

The following definitions shall apply to this chapter and this chapter only, except where specifically noted.

Applicant or owner - means any individual, corporation, business trust, estate trust, partnership, association, two or more persons having a joint or common interest, governmental agency, or any other legal entity, which has submitted an application for concurrency reservation certificate.

Application - means an application presented to the County containing the information required pursuant to this chapter.

Available capacity - means that portion of the capacity that has not been used or allocated for use by development.

Capacity or maximum capacity - means a maximum and quantifiable ability for a public facility to provide service to its users, calculated relative to a level of service infrastructure standard.

Capital improvement - means a permanent addition, construction or fixture to real property or structures thereon which has an estimated purchase or construction cost of more than \$5,000.00.

Capital Improvements Element - means that element of the Comprehensive Plan adopted pursuant to F.S. Ch. 163, which is based on the need for public facilities as identified in the other Comprehensive Plan elements and as defined in the applicable definitions for each type of public facility, which estimates the cost of improvements for which the local government has fiscal responsibility which analyzes the fiscal capability of the local government to finance and construct improvements, and which schedules the funding and construction of improvements in a manner necessary to ensure that capital improvements are provided when required based on needs identified in the other adopted Comprehensive Plan elements.

Commenced - means that point at which actual physical construction of the project begins in concert with the provision of necessary support infrastructure whether such infrastructure improvements are off-site or on-site.

Comprehensive Plan or Plan-means the Citrus County Comprehensive Plan adopted pursuant to Ordinance 89-04 by the BCC of Citrus County, Florida, as may be amended from time to time.

Concurrency - means that the necessary public facilities and services to maintain the adopted level of service standards are available when the impacts of development occur.

Concurrency management system (CMS) - means the procedures and processes utilized by the county to assure that final development orders and final development permits are not issued unless the necessary facilities to support the development are available concurrent with the impacts of development.

Development agreement - means an enforceable agreement which may include, but is not limited to, development agreements entered into pursuant to F.S. 163.3220, or Chapter 12 of this LDC, or an agreement or development order issued pursuant to F.S. Ch. 380, and/or Citrus County Code. The development agreement must guarantee that the necessary facilities and services will be in place to support the impacts of the project. A development agreement entered

into between the county and an applicant pursuant to the provisions of the Citrus County Land Development Code shall serve as the functional equivalent of recognition of concurrency when necessary for commencing or continuing development.

Director - shall mean the Department of Growth Management Director or his designee.

Equal mitigation - means providing improvements that are equal to the impact of new development on a deficient facility and are deemed to be of significant public benefit. Improvements may not further degrade the level of service on any deficient facility.

Essential public services - means providing the public with necessary services including utility substations, electric substations, well houses, water towers/storage tanks, public schools, fire/EMS stations, public hospitals, police substations, road maintenance facilities, public parks, and public buildings.

Guaranteed improvement - means a capital improvement guaranteed in an enforceable development agreement entered into pursuant to F.S. Ch. 380, or F.S. Ch. 163 or as specified in the Capital Improvements Element of the Plan.

Level of service (LOS) - 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. Level of service shall indicate the capacity per unit of demand for each public facility or service.

Necessary facilities - means public facilities and services necessary to accommodate the proposed development while maintaining the adopted LOS standards.

Public facilities or service - means those facilities and services specified in the Plan, as required by F.S. 163.3177, for which level of service standards have been adopted: potable water, sanitary sewer, solid waste, drainage.

Proportionate fair share mitigation agreement - is an agreement between the county and a developer, which allows the developer to contribute a fair share payment for a required improvement. The fair share contribution mitigates the impacts development puts on public facilities, ensuring that the adopted level of service standards in the Comprehensive Plan are maintained.

Reserved Capacity - means that portion of the capacity that has been vested or allocated for use by development.

8300. GENERAL PROVISIONS

- A. A demonstration of concurrency shall be required prior to the issuance of all final development orders. No final development order shall be issued or granted by any board, commission, department or agency of the county unless in accordance with the criteria set forth herein.

- B. In addition to the required concurrency review and determination for final development order, the Department may review planned development rezoning applications, Comprehensive Plan amendments or a substantial deviation to previously approved development of regional impact (DRI), to the extent such deviation subjects the changed portion of the DRI to concurrency. In those cases where the Department has determined that such an approval could lead to excessive impacts on public facilities and services needed to support the development.
 - 1. An advisory opinion may be issued setting forth the basis determination of excessive impacts, or impacts not otherwise exempted by this chapter or outlined under an existing concurrency recognition.

 - 2. An advisory opinion will contain mitigation options available such as reduction of density or intensity, phasing of the project to match its impacts with planned expansion of public facilities, required improvements to public facilities, or fair share contribution.

- C. For purposes of determining concurrency pursuant to a final development order, the County shall utilize the LOS standards set forth in the Plan.

- D. Concurrency considerations relating to developments of regional impacts must be reviewed in accordance with F.S. Ch. 380.
- E. A development order shall not be issued for a use or intensity that is inconsistent with the existing land use designation of the property contained on the land development code atlas maps or the generalized future land use map.
- F. A development order does not vest an applicant for the right to obtain subsequent development approvals for a development.
- G. A development agreement entered into between the applicant and the County pursuant to the requirements of Chapter 12 of this LDC shall be deemed a functional equivalent of concurrency approval for the purpose of obtaining a final development order or a certificate of occupancy.
- H. A proportionate fair share mitigation agreement may be entered into by the applicant to obtain concurrency pursuant to the requirements of F.S.163.3180.
- I. A nonresidential plat may be approved for recording without concurrency demonstration. However, approval of a nonresidential plat does not entitle or ensure concurrency for any construction or development within the nonresidential plat. Concurrency must be demonstrated prior to issuance of a final development order or permit authorizing construction or development.
- J. The director has the authority to issue a stop work order whenever the director has determined that reasonable suspicion indicates that incorrect or inaccurate information was provided to demonstrate concurrency, or development is occurring without concurrency.

8350. EXEMPTIONS

- A. Applications for permits or approvals that do not constitute development;
- B. Single-family residence, accessory dwelling unit, or duplex on a lot in an existing or approved subdivision or on a lot of record;
- C. A development which creates no additional impact on public services including, but is not limited to, the following:
 - 1. Any addition or accessory structure to a residence with no change in use or increase in the number of dwelling units;

2. Interior renovations or replacement structures with no change in use or increase in the number of dwelling units or square footage;
 3. Interior completion of a structure for use(s) with the same or less intensity as the existing use or a previously approved use;
- D. Temporary uses as outlined in this LDC;
- E. Essential public services shall be exempt from concurrency requirements and the impacts on public facilities incorporated into the CMS system as background provided.
1. The agencies providing essential public services shall be required to enter into binding agreements with the county to ensure that any required improvements to maintain adopted level of service standards for all public facilities are included in the CIE.
 2. Any required improvements will be addressed by the County through the CIP and CIE to ensure adopted level of service standards are maintained.
- F. Other exemption as allowed by Florida Statutes.

8400. RESERVED

8450. APPLICATION CONTENT AND SUBMITTAL REQUIREMENTS

- A. All applicants for a development order shall file a completed application, which demonstrates that their project complies with the LOS standards and concurrency criteria contained in this chapter and in the Plan. An application shall provide sufficient information to determine the impact of such development consistent with the concurrency standards, criteria and

procedures set forth herein and in the Plan. An application must include the following information, at a minimum:

1. Name, address, and phone number of owner(s), developer and agent;
 2. Property location, including parcel identification numbers;
 3. Project description, including type and amount of development;
 4. The following attachments:
 - a. Proof of ownership (copy of deed or purchase agreement);
 - b. Legal description;
 - c. General site plan including the property boundaries, all development on property with use and intensity at a level of detail sufficient to identify impacts;
 - d. Phasing schedule, if applicable;
- B. The burden of showing compliance with the LOS standards adopted in the Plan shall be upon the applicant.

8500. RESERVED

8550. EXPIRATION, EXTENSION, AND MODIFICATION

- A. A demonstration of concurrency shall expire for any portion of the approved development that meets any of the following conditions:
1. For nonresidential and multifamily uses, a building permit has not been issued within one year of concurrency demonstration;
 2. For nonresidential and multifamily uses, a certificate of occupancy has not been issued within 30 months of concurrency demonstration;
 3. For residential uses, a final plat has not been approved by the BCC and recorded in the public records within 24 months of concurrency demonstration;
 4. The project is completed as evidenced by the issuance of certificate of occupancy (final inspection) for all buildings and/or residential units within the project;
 5. The final development order expires or is revoked by the county;

6. The development agreement authorizing the project expires or is revoked by the county.
- B. An applicant may request an extension prior to the expiration of concurrency demonstration. Extensions may be granted by the Department subject to the following limitations:
1. A maximum of three extensions may be granted;
 2. No extension will exceed six months in duration;
 3. An extension must be issued for the uses and intensities that are consistent with the current zoning and land use designation of the property. However, if a rezoning application has been filed with the Department, a three-month extension may be granted for the uses and intensity that are consistent with the proposed zoning and land use designation of the property. A provision for three additional months (for a total duration of six months) will be allowed provided that the rezoning request is approved by the BCC within the initial three-month extension period; and
 4. The third extension request may be granted only if construction has commenced and continued in good faith as evidenced by county inspections.
- C. An applicant may request a modification to the approved uses and intensity of a project. A modification will not alter or extend the expiration period associated with the concurrency demonstration.
- D. Concurrency demonstration runs with the land and is transferable from owner to owner of the property for which it was issued.

8700. CONCURRENCY CRITERIA – SANITARY SEWER, SOLID WASTE, DRAINAGE AND POTABLE WATER FACILITIES

- A. For purposes of ensuring that the adopted LOS standards for sanitary sewer, solid waste, drainage and potable water facilities are maintained, the applicant must demonstrate that one or more of the following criteria have been met:
1. The necessary facilities are in place at the time the application is filed;
or
 2. The necessary facilities are under construction at the time the application is filed; or
 3. The necessary facilities are in the adopted five-year capital improvements program as outlined in the Capital Improvements Element of the Plan; or
 4. At the time the application is filed, the necessary facilities and services are guaranteed in an enforceable development agreement or binding executed contract to be in place at the time a certificate of occupancy is issued.
- B. *Solid waste*: The adopted LOS standard for solid waste facilities is maintained on a countywide basis. A proposed development must provide a solid waste analysis to prove that the proposed development is concurrent with the LOS standard for solid waste facilities. The concurrency demonstration does not preclude the owner from paying any applicable solid waste user fees.
- C. *Drainage (stormwater)*: A proposed development is presumed to be concurrent with the LOS standard for drainage (stormwater) facilities provided the applicant agrees that the drainage calculations and construction plans for the proposed development will adhere to the adopted LOS standard in the Plan.
- D. *Potable water*: For the purposes of this chapter, the available capacity for a potable water facility will be calculated as the maximum capacity plus improvement capacity less used capacity less pending capacity less reserved capacity, assuming the following values:
1. The maximum capacity is the design capacity for the facility.
 2. The improvement capacity is the additional capacity resulting from a guaranteed improvement scheduled to be in place or under actual construction within one year of the date of the application.

3. The used capacity is the peak flow of the facility as provided in the most recent annual capacity statement.
 4. The pending capacity is the estimated demand for proposed developments for which a final determination has not been made on its application, fair share application, development agreement application, or appeal.
 5. The reserved capacity is the amount of reserved flow for actual connections that are prepaid or are the subject of a binding agreement with the utility provider and demand from proposed developments that have a valid, unexpired agreement.
- E. *Sanitary sewer*: For the purposes of this chapter, the available capacity for a sanitary sewer facility will be calculated as the maximum capacity plus improvement capacity less used capacity less pending capacity less reserved capacity, assuming the following values:
1. Maximum capacity is the design capacity for the facility.
 2. Improvement capacity is the additional capacity resulting from a guaranteed improvement scheduled to be in place or under actual construction within one year of the date of the application.
 3. Used capacity is the peak flow of the facility as provided in the most recent annual capacity statement.
 4. Pending capacity is the estimated demand for proposed developments for which a final determination has not been made on its application, fair share application, development agreement application, or appeal.
 5. Reserved capacity is the amount of reserved flow for actual connections that are prepaid or are the subject of a binding agreement with the utility provider and demand from proposed developments that have a valid agreement.
 - a. The owner of a proposed development shall be responsible for entering into a binding agreement with the utility provider for extending and connecting to water and sewer facilities. The owner shall be responsible for the payment of all related fees and charges.
 - b. The owner of a proposed development served by a private well or septic tank must provide all applicable approvals from the environmental health or other applicable permitting agency, as appropriate, upon obtaining a final development order or permit.

8800. RESERVED

8850. MITIGATION PROCEDURES

Applicants have several options for mitigation if a development is not concurrent.

- A. *Development agreement*: The applicant may negotiate a development agreement to address the deficiency within a given facility. If the adopted level of service can be achieved the County may recognize that concurrency has been met.
- B. *Modify development project*: The applicant has the option to modify the project to eliminate the concurrency problems.
- C. *Build improvements to restore level of service*:
 - 1. Applicant has the option to pursue an agreement with the county that needed improvements will be planned and constructed by the applicant to eliminate deficiencies in required facilities.
 - 2. The County then must add these improvements to the CIP at the next update.
 - 3. The applicant will have to provide a dedicated funding source and a schedule of construction for the improvements.
- D. *Provide equal mitigation*: The County may provide an applicant the option to provide improvements that will not further degrade the level of service on a deficient facility.
- E. *Change level of service standards*: The applicant may petition the County to change the adopted level of service standard for a deficient facility.

8870. ADMINISTRATIVE PROCEDURES

In order to provide potential applicants or other interested parties with information on available capacity and in order to administer this chapter, the County shall develop and maintain procedures to monitor cumulative concurrency. The County shall maintain and make available to the public the following inventories and reports:

- A. *Potable water inventory*: The inventory shall contain the following information for each water treatment facility: facility name, maximum capacity, improvement capacity, used capacity, pending capacity, and reserved capacity.

- B. *Sanitary sewer inventory*: The inventory shall contain the following information for each water treatment facility: facility name, maximum capacity, improvement capacity, used capacity, pending capacity, and reserved capacity.

8900. APPEALS

- A. An applicant for concurrency may appeal any decision or technical determination made by the Department or any reviewing department pursuant to this chapter. The appeal shall be made by filing a notice of appeal with the Department within 15 days of the issuance of the written decision being appealed. The notice of appeal shall include:
 - 1. A statement of the decision to be reviewed and the date of the decision;
 - 2. The specific error alleged as the grounds of the appeal; and,
 - 3. Supplemental information supporting the appeal.
- B. A hearing on the appeal before the BCC will be scheduled for a date no more than 90 days subsequent to the filing of a notice of appeal accompanied by a receipt evidencing payment of the required fee. The applicant shall be given at least 15 days written notice of the scheduled hearing date.
- C. The appellant shall have the burden of proof to establish by a preponderance of the evidence that there was an error in the decision or technical determination made by the Department or any of the reviewing departments in applying the regulations and methodology of this chapter or the adopted level of service standard.

D. No person aggrieved by any requirement, decision or determination by the Department or any reviewing department pursuant to this chapter in applying the provisions of this chapter to any application or request for the issuance of a final development order or final development permit may apply to the court for relief unless he has first exhausted all administrative remedies provided for herein.

8950. RESERVED

(Ordinance No. 2015-A06, Section 8200., Section 8800., adopted March 24, 2015)

(Ordinance No. 2016-A07, Sections 8200., 8800., adopted April 12, 2016)

Ordinance No. 2019-A29, Sections 8200, 8300, 8350, 8400, 8450, 8500, 8550, 8700, 8800, 8850, 8870, 8900, 8950, adopted November 19, 2019)