

## CHAPTER 8

### CONCURRENCY MANAGEMENT SYSTEM

#### SECTION 8000. CONCURRENCY MANAGEMENT SYSTEM.

##### Subsection 8001. Purpose.

Gadsden County has prepared a concurrency management system (Concurrency Management System) to implement the adopted level of service for public facilities pursuant to § 163.3202(2)(g), Florida Statutes. Gadsden County's concurrency system is based upon the following assumptions. First, limited capacity of the existing public facilities is assumed. Second, the County has no wishes to delay or stop development, but only wishes to "manage growth" in accordance with the spirit of the 1985 Growth Management legislation and the adopted Comprehensive Plan. Third, the Concurrency Management System makes it difficult for speculation to occur. Finally, the Concurrency Management System considers the LOS requirements of the Traffic Circulation, Recreation and Open Space, Public Facilities and Capital Improvements Elements and anticipates future needs and/or problems faced by the County, and as much as possible be created to meet these needs.

(Ord. # 1996-002, 7-2-96)

The Concurrency Management System or capacity-to-serve-determination shall measure the potential impacts of a development proposal upon the minimum adopted Levels of Service (LOS) for potable water, waste water, solid waste, recreation and open space, drainage and roadway facilities. The most current available information and data regarding the above facilities or services operating LOS shall be utilized for capacity-to-serve-determination.

(Ord. # 1996-002, 7-2-96)

##### Subsection 8002. Description of the Gadsden County Concurrency Management System.

In order to assist the County in meeting the concurrency requirement, the concurrency management system is described below. A concurrency management system must specify the conditions and terms which will satisfy the intent and requirements of both Section 163.3202(2)(g), Florida Statutes and Rule 9J-5.055, Florida Administrative Code. At the onset, the public facilities and service which must meet level of service standards must be specified. The conditions which will satisfy the concurrency requirement, that is, the manner in which facilities and services must be in place relative to developmental impacts, must be spelled out.

(Ord. # 1996-002, 7-2-96)

The "concurrency evaluation" will determine if there is adequate capacity in each of the concurrency facilities to accommodate the impacts of the existing population, vested and exempt development projects, previously permitted development projects and the proposed new development projects. Capacity must be available in the water, wastewater treatment, solid waste, traffic and stormwater management when the building permit is issued. For parks, capacity must be available in accordance with Subsection 8006.

(Ord. # 1996-002, 7-2-96)

A concurrency evaluation and resulting "Certificate of Concurrency" shall apply to a specific

development order that, applies to a specific development project. The applicable development project may be phased.

(Ord. # 1996-002, 7-2-96)

A concurrency evaluation for all facilities must occur prior to the issuance of the development order, unless otherwise specified in this Code.

(Ord. # 1996-002, 7-2-96)

### **Subsection 8003. Development Permits Requiring a Capacity to Serve Determination.**

In order to satisfy concurrency, all proposed new development projects must undergo a concurrency evaluation prior to the issuance of a final development order, unless the project is exempt or has been determined to be vested. A concurrency evaluation shall be required of an applicant with the following applications for development permits.

1. Building permit;
2. Type I, II or III site plans as set forth in Section 7200 of the Code;
3. Type III plan amendment proposals;
4. Preliminary and final plat approvals; and
5. A change to a higher residential density (density bonuses).

(Ord. # 1996-002, 7-2-96)

### **Subsection 8004. Burden of Proof.**

The burden of showing compliance with the adopted minimal LOS and the concurrency evaluations shall be upon the applicant. Upon receipt of a denial based upon insufficient capacity to serve the potential development, the applicant shall be afforded the opportunity to review the documentation and information upon which the determination was based.

(Ord. # 1996-002, 7-2-96)

### **Subsection 8005. Steps to Follow.**

No land development order (DO) will be issued until the Division of Planning has evaluated the DO and determined that the proposal is consistent with the Comprehensive Plan, land use and building regulations or other applicable regulations. In order to determine whether the proposal is in compliance with the comprehensive plan and land development regulations, a concurrency evaluation must be conducted to determine that the proposal does not exceed the level of service (LOS) standards established in the adopted comprehensive plan for the following public facilities and services:

- o Drainage
- o Parks and recreation
- o Potable water
- o Waste water
- o Solid waste
- o Transportation

(Ord. # 1996-002, 7-2-96)

### **Subsection 8006. Satisfaction of Concurrency Evaluation Requirements.**

The satisfaction of concurrency evaluation requirements is predicated upon at least one of the following (note: #4 applies only to transportation and parks, #6 only applies to transportation):

1. The necessary public facilities and services are in place to serve a proposed project at the time a DO is granted.
2. A DO is issued subject to the condition that the particular and necessary public facilities and services will be in place when the impact upon the public facilities and service of the project occurs.
3. The necessary public facilities are under construction at the time a DO is issued.
4. The necessary public facilities and services are the subject of a binding executed contract for the construction of the public facilities or provision of services at the time the development order is issued. Concurrency requirements for parks and recreation facilities and services require that the binding executed contracts provide for the construction of the facilities or the provision of the services within one year of the issuance of the permit.
5. The necessary public facilities and services are guaranteed in an enforceable development agreement that must include the provisions of Section (1), (2) or (3) above, and guarantees that the necessary facilities and services will be in place when the impacts of the development occur.
6. The necessary public facilities and services are included in the adopted five-year schedule of capital improvements in the capital improvements element of the local government or in the state's five-year schedule of capital improvements, provided that the aforementioned schedule is realistic, financially feasible, is based on currently available revenues sources, and contains estimated project completion dates for the affected public facilities or services, along with the following requirements:
  - a. Transportation projects included in DOT's adopted 5-Year work program will be recognized only for those projects included for the first three (3) years of the work program.
  - b. The 5-Year Schedule of Capital Improvements must include the estimated date of commencement of actual construction, as well as the estimated date of project completion.
  - c. The 5-Year Schedule of Capital Improvements must demonstrate that the actual construction of the road is scheduled to commence within the third year of the 5-Year Schedule of Capital Improvements. (Ord. # 2003-006, 8-19-03)
  - d. A Plan amendment will be required to eliminate, defer or delay construction of any road which is needed to maintain the adopted level of service standard and which is listed in the 5-Year Schedule of Capital Improvements.
  - e. The County's land development regulations, in conjunction with the Capital Improvements Element, must ensure that development orders and permits are issued in a manner that will assure that the necessary public facilities and services will be available to accommodate the impact of that development.
  - f. The County will adopt a monitoring system which enables the County to determine whether it is adhering to the adopted level of service standards and its schedule of capital improvements and that the County has a demonstrated capability of monitoring the availability of public facilities and services. (Ord. # 1996-002, 7-2-96)

### **Subsection 8007. Concurrency Evaluations Comparison.**

The Planning Department will conduct concurrency evaluations through a comparison of the demand requirements of proposed developments with the capacity of existing facilities.

This comparison will be based upon:

1. Existing Demand: the demand on a public facility that is currently present and that can be measured, i.e., the actual traffic count on a street or the rate of flow through a water system. (Ord. # 2003-006, 8-19-03)
2. Vested Demand: the demand on a public facility that is expected to occur due to developments with vested rights under the concurrency requirements.
3. Anticipated demand for public facilities and services generated by proposals for which capacity reservation certificates have been approved.
4. Permitted Demand: the demand on a public facility that is expected to occur due to development that has been permitted under the provisions of the comprehensive plan.
5. Committed Demand: the sum of the vested demand and the permitted demand.
6. Project Demand: the demand on a public facility that is expected to occur due to a development project that is under consideration.

(Ord. # 1996-002, 7-2-96)

### **Subsection 8008. Issuance of Development Order.**

No DO shall be issued by the Planning Department or any other Department unless LOS for all public facilities and services meet or exceed LOS standards adopted by the County, and no proposed or approved DO will result in reduction of any LOS below acceptable standards.

- A. The following steps will be required to reserve capacity and obtain a development order:
  1. Any individual or party seeking a development order, adjustment, or variance for any parcel of land in conjunction with any DO must first complete the concurrency evaluation portion of the site development or subdivision application form, along with the fee for such concurrency evaluation as established by the County. The applicant must provide the following information on forms provided by the County. (Ord. # 2003-006, 8-19-03)
    - i. Name, address, and telephone number of the owner of the parcel of land, applicant, and of any attorney or other representative of the owner or applicant who may be appearing on behalf of the owner or applicant.
    - ii. Legal description of the project parcel of land.
    - iii. Size of the project parcel of land in acres, including fractional acreage rounded to the nearest one-hundredth of an acre, if known.
    - iv. Land use classification or other action requested.
    - v. Boundary survey and/or other applicable legal description.
    - vi. Specific use or uses proposed to be expanded.
    - vii. Square footage and number of units for each use.
    - viii. If a subdivision, number and type of units for each phase, and,
    - viv. Anticipated project demand or capacity requirements upon the public facilities and services identified in the Comprehensive Plan.
  2. Any application for a development order must be consistent with the information on the application for concurrency evaluation. If the applicant increases the intensity or density of the development project proposal during any stage in the development approval process, a

(Ord. # 1996-002, 7-2-96)

new concurrency evaluation will be required.

(Ord. # 1996-002, 7-2-96)

- B. Concurrency evaluations generally will not be completed on the same work day that a request for concurrency evaluation and reservation of LOS capacity is made. Evaluations will be conducted on a "first come, first served" basis. Such prioritization is necessary to ensure that the cumulative effects of separate proposals can be assessed as well as that those seeking evaluation retain priority of right to reserve available capacity.

(Ord. # 1996-002, 7-2-96)

- C. The Planning Department staff will use the information provided on the application for concurrency review to determine the location and land use category of the proposed development.

(Ord. # 1996-002, 7-2-96)

- D. Capacity Reservation Certificate. A capacity reservation application shall be considered a capacity reservation certificate once the fee has been paid and the type and amount of capacity reserved is approved by the Planning Department. The certification shall only apply to a specific use(s), densities and intensities. Such certification shall remain valid for; two years from date of issuance, except that the developer will forfeit capacity reserved but not used at the end of that period if DO's have not been issued and no other action to prevent forfeiture has been taken by the certificate holder. An extension of capacity reservation may be granted under certain circumstances.

(Ord. # 1996-002, 7-2-96)

- E. If the proposed use is in conflict with an existing land use category, the developer will be referred to the Gadsden County Board of County Commissioners to apply for a Comprehensive Plan amendment. If any or all of the facilities and services are found to be inadequate, the developer will be so informed and offered the option of placement of the proposal on a priority list until at least one of the concurrency requirements listed in the adopted Comprehensive Plan has been satisfied. Proposals placed on this priority list will be prioritized on a "first come, first served" basis.

(Ord. # 1996-002, 7-2-96)

- F. Preliminary Development Orders. Preliminary Development Orders may be issued without a concurrency evaluation or with a concurrency evaluation. However, land use amendments resulting in a greater density or intensity will require a concurrency evaluation.

(Ord. # 1996-002, 7-2-96)

- G. Final Development Orders. No final development order may be issued without a concurrency evaluation. At the applicant's option, the concurrency evaluation for water and wastewater services may be deferred until the building permit or tap is requested, whichever is first, but no building permit or tap will be issued until concurrency review for water and wastewater services is completed.

(Ord. # 1996-002, 7-2-96)

**Subsection 8009. Monitoring Availability of Capacity of Public Facilities and Service.**

(Ord. # 1996-002, 7-2-96)

The County shall monitor the availability of public facilities and services, as follows:

(Ord. # 1996-002, 7-2-96)

A. The Planning Department will compile and keep current a documentary record of all LOS and existing capacities, noting any and all deficiencies relative to LOS standards.

(Ord. # 1996-002, 7-2-96)

B. The Planning Department will maintain a cumulative record of the LOS allocations permitted by the approval of DO's relative to the operating LOS for the applicable public facilities and services for which LOS standards have been established.

(Ord. # 1996-002, 7-2-96)

C. The Planning Department will maintain a documentary record of all applicable public facility and service capacities which have been reserved as a result of approved capacity reservation certificates.

(Ord. # 1996-002, 7-2-96)

D. A developer may appeal a concurrency evaluation which results in the denial of a capacity reservation certificate on the following grounds: the developer provides evidence which demonstrates that the development proposal will not produce LOS inadequacy below the existing LOS standard or due to an error in the Planning Department's concurrency evaluation process.

(Ord. # 1996-002, 7-2-96)

E. The Planning Department's concurrency management staff will prepare and file yearly reports concerning the status of all LOS and capacities with the Board of County Commissioners.

(Ord. # 1996-002, 7-2-96)