

Chapters 83—85

**RESERVED**



## Subpart B

### LAND DEVELOPMENT REGULATIONS

#### Chapter 86

#### CONCURRENCY MANAGEMENT SYSTEM\*

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\***Cross references**—Administration, ch. 2; buildings and building regulations, ch. 18; impact fees, § 42-26 et seq.; interim service fee, § 42-266 et seq.; utilities, ch. 78; floods, ch. 90; natural resource protection, ch. 94; planning and development, ch. 98; signs, ch. 102; stormwater management, ch. 106; subdivisions, ch. 110; vegetation, ch. 114; zoning, ch. 118.



**Sec. 86-1. Short title.**

This chapter shall be known and may be cited as the "Concurrency Ordinance of the City of Winter Garden."  
(Code 1988, § 28-1)

**Sec. 86-2. Purpose and intent.**

(a) It is the intent of this chapter to ensure that the impact of any proposed project shall be measured against the adopted level of service standards contained in the comprehensive plan. In the implementation of this chapter, the city shall measure the potential impact of any development permit proposal upon the following public facilities: roads, potable water, sanitary sewer, solid waste, drainage, and recreation and open space. The city shall utilize the most current and available data regarding the public facilities mentioned in this subsection with respect to the measurement of the impact of the project upon these facilities. No final development permit shall be issued unless adequate facilities are available as determined by the concurrency evaluation.

(b) It is not the intent of the city for this chapter to replace any other development review criteria utilized by the city, unless such review criteria are inconsistent with this chapter. Compliance with this chapter does not guarantee approval of a development proposal unless all other development review criteria have been met.  
(Code 1988, § 28-2)

**Sec. 86-3. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Accepted engineering principles* means the engineering concepts generally accepted by the broad base of professionals in the particular engineering discipline for which a concurrency evaluation is being conducted.

*Available public facilities* means that a public facility or service will be provided as follows:

- (1) The facility is in place to serve a proposed project at the time a final development permit is approved;

- (2) The facility is under construction at the time a final development permit is approved;
- (3) The facility is subject to a binding executed construction contract at the time a final development permit is approved;
- (4) The facility is subject to an enforceable development agreement. An enforceable development agreement may include but is not limited to agreements pursuant to F.S. § 163.3220; or
- (5) The facility is included in the first three years of the state department of transportation five-year work program.

*Average daily traffic* means an average number of vehicles crossing a specific point on a roadway on an average weekday. The most recent official traffic counts from the state department of transportation, the county, or the city shall be accepted as representing average daily traffic for a specified roadway segment. Average daily traffic counts provided by any other source must be prepared by utilizing accepted engineering principles.

*Building permit* means a written authorization issued by the building official which permits construction of any structure.

*Captured trips* means motor vehicle trips which enter or exit a project site, are not generated by that project, but rather they are temporarily diverted from the average daily traffic of the adjacent roadway.

*Development* means the carrying out of any building operation or the making of any material change in the use of function of any structure or land as well as the dividing of land into two or more lots or parcels.

*Development agreement* means an agreement entered into pursuant to F.S. § 163.3220 et seq., which the city may be a party to and that may ensure construction or provision of a public facility or service.

*Development order* means any order granting, with or without conditions, a development permit, including any amendments to a development permit.

*Development permit* means any building permit, rezoning, site plan approval, subdivision approval (both preliminary plat and final plat), special exception, variance, or any other official action of the city having the effect of permitting the development of land. It shall not include the issuance of a certificate of occupancy.

*Direct access* means the accessing roadway links which serve as the immediate and direct access for the project or its means of ingress and egress.

*ERU or equivalent residential units* means the amount of wastewater generated or potable water utilized by a nonresidential facility comparable to a single-family unit.

*Existing traffic* means average daily traffic.

*Final development order* means a building permit or, for a subdivision, an approval to construct all required improvements.

*Level of service* means an indicator of the extent or degree of service provided by or proposed to be provided by a public facility based on and related to the operational characteristics of the public facility.

*Link or segment* means the portion of a roadway between two major intersections or between a major intersection and the end of the roadway.

*Net impact* means the total impact of a development upon the level of service for a particular public facility minus the existing impacts of earlier phases or previous development on the same property.

*Performance security* means sufficient funds irrevocably committed by written agreement in order to secure complete performance of a contract or condition of a development order or development agreement in a form approved by the city commission.

*Project* means the development of a parcel of land or the expansion of any existing development.

*Public facilities and services* means transportation facilities (roadways), drainage (stormwater management), potable water, sanitary sewer, solid waste, and recreational parks and open space.

*Radius of development influence* means the area surrounding a proposed project. The radius of development influence shall be a geometric radius measured from all boundaries, and such radius shall be determined according to accepted engineering principles.

*Significant impact traffic study* means a traffic study or links, directly accessed links, and intersections within the radius of development influence of a proposed significant project.

*Significant project* means any project for which the city determines that the impact of the traffic generation from the project during buildout will cause a significant impact on any link within the radius of development influence.

*Threshold level of service* means the point at which the level of service of a given public facility crosses from a permitted level of service to a level of service not permitted by the adopted standard of the comprehensive plan.

*Trip generation standards* means the standards found in the latest edition of the book entitled "Trip Generation," prepared by the Institute of Transportation Engineers, or those standards found in article II of chapter 42 pertaining to impact fees.

*Vested project* means a project which has received a final development permit prior to the effective date of the ordinance from which this chapter derives. It shall, also, mean the development of any single-family lot in a subdivision platted prior to August 1992.

(Code 1988, § 28-3)

**Cross reference**—Definitions generally, § 1-2.

#### **Sec. 86-4. Applicability.**

Unless otherwise provided in this chapter, this chapter shall apply to all development orders. This shall include new development orders as well as amendments to existing development orders. This chapter shall assess only the net impacts from the development of a parcel of land. (Code 1988, § 28-4)

**Sec. 86-5. Application for concurrency evaluation.**

(a) *Nonbinding concurrency evaluation prior to application for zoning, special exception or variance.* The owner or applicant for the owner may request a nonbinding concurrency evaluation prior to submitting an application for a development permit. This application, along with a fee as may be established from time to time by resolution of the city commission, shall contain the following information and any other information the director of planning deems necessary in order to make the evaluation:

- (1) Names, addresses and telephone numbers of the owner of the property and the applicant.
- (2) Legal description, size of property in acres, and zoning.
- (3) Type of development permit requested.
- (4) Boundary survey, if required.
- (5) Specific use with appropriate square footage or number of units.

(b) *Binding concurrency evaluation prior to application for site plan approval, subdivision plat (preliminary and final) and building permit.* The same procedure as outlined in subsection (a) of this section shall apply and the following information shall be provided:

- (1) Names, addresses and telephone numbers of the owner of the property and applicant.
- (2) Legal description, size of property in acres, and zoning.
- (3) Type of development permit requested.
- (4) Boundary survey.
- (5) Specific use with square footage or number of units and phasing.
- (6) Stormwater management plan.
- (7) Significant traffic impact study prepared according to accepted engineering principles if required by director of planning.

(c) *Consistency with application for development permit.* Any application for a development permit must be consistent with the information

on which the concurrency evaluation was based. If the applicant increases the intensity or density of the development project proposal during any stage in the development approval process, a new concurrency evaluation will be required. The applicant may choose to supply additional information, and the director of planning may request additional information in order to make a concurrency determination. This may include a determination of the radius of development influence. (Code 1988, § 28-5)

**Sec. 86-6. Concurrency review.**

(a) *Findings of director of planning.* The director of planning shall, at the request of the applicant, issue a concurrency evaluation finding of either nondeficiency or deficiency which shall be binding for the following development permits: site plan approval, subdivision plat (preliminary and final), and building permit. This evaluation shall occur at the time of official submittal.

(b) *Timeframe validity of concurrency evaluation finding of nondeficiency.*

- (1) Site plan approval nondeficiency findings shall remain valid for the life of the site plan according to the site plan approval process.
- (2) Subdivision plat nondeficiency findings shall remain valid for the total subdivision or a phase for which all required improvements have been approved by the city and are to be installed within a one-year timeframe.
- (3) Building permit nondeficiency findings shall remain in effect until the construction has been completed or for the life of the building permit as established by the city. The building permit must be issued within 60 days of the finding in order for the nondeficiency finding to remain valid.

(c) *Concurrency evaluation findings.*

- (1) The director of planning shall use the concurrency evaluation parameters for each of the six public facilities in determining if

a proposed project shall have either a nondeficiency finding or a deficiency finding.

- (2) A nondeficiency finding shall be made if a proposed project is determined to be nondeficient for all six public facilities.
  - (3) A deficiency finding shall be made if the proposed project is deficient for any of the six public facilities. A deficiency finding shall negate the issuance of a final development order or force deferral of the issuance until a nondeficiency finding can be made.
- (d) *Cumulative records of level of service.* The director of planning shall maintain records of the level of service allocations permitted by the binding concurrency evaluation procedure relative to the operating levels of service for the public facilities mentioned in section 86-2 for which the director of planning is responsible. At least once per year, the city shall rectify the cumulative record to delete projects that have expired or that have been assimilated into the system.

(e) *Vested project review.* Upon receipt of an application for a final development permit for a vested project, the director of planning may approve the final development order after making a finding of nondeficiency.

(Code 1988, § 28-6)

### **Sec. 86-7. Appeals.**

Appeals from the decisions of the director of planning with respect to determinations made under this chapter shall be taken to the city commission.

(Code 1988, § 28-7)

### **Sec. 86-8. Evaluation criteria.**

For the purpose of this chapter, the city staff shall use the criteria in this section to determine whether levels of service are adequate to support the specific impacts of a proposed development. This system is designed to utilize the most recent

and available data regarding roads, sanitary sewer, solid waste, drainage, potable water, and parks and recreation. The criteria shall be as follows:

- (1) *Transportation or road concurrency.*
  - a. Capacity for transportation facilities shall be evaluated using the Florida's Level of Service Standards Manual for Planning, prepared by the state department of transportation April 12, 1992, or its most current version.
  - b. The transportation facility shall have the capacity to serve a proposed development at the adopted level of service standards found in the traffic circulation element of the city's comprehensive plan.
  - c. Projected impacts on the transportation facility shall be determined by utilizing the trip generation standards set forth in the city's 1990 impact fee study, including any revisions. Any dispute involving the trip generation standards of a proposed development shall be settled by using the Institute of Transportation Engineers trip generation manual, fifth edition, or its most current version.
  - d. Concurrency evaluation shall be measured at the ingress and egress points to the accessing transportation link or segment.
  - e. In determining the capacity of the transportation facility, it shall be assumed that all projects funded for construction in the capital improvements program of the city, as well as those funded and evidenced by contract by county, state, or federal agencies in their annual budgets, have been completed and are a part of the system.
  - f. If the proposed development accesses a state or county transportation facility, the city shall require an approval letter from the county or the state department of transporta-