

## PART 1. - OVERVIEW AND EXEMPTIONS

### Sec. 59.100. - Introduction.

The purpose of this Chapter is to implement the concurrency provisions of the Growth Management Plan (GMP), as mandated by Florida Statutes ch. 163 ~~and F.A.C. 9J-5.0055 and 9J-5.0057~~. No development order or permit which contains a specific plan of development, including the densities and intensities of development, shall be issued except in accordance with this Chapter. This Chapter may be cited as the Concurrency Management Ordinance. (Ord. of 9-16-1991, Doc. #25096; Ord. of 11-16-1992, Doc. #26149)

### Sec. 59.101. - Procedure.

The Concurrency Management Official shall be responsible for carrying out the requirements of this Chapter and shall make determinations regarding concurrency including, though not exclusively, Concurrency Encumbrance Letters, Capacity Reservation Certificates, Building Permits and Certificates of Occupancy. (Ord. of 9-16-1991, Doc. #25096; Ord. of 11-16-1992, Doc. #26149; Ord. No. 2013-24, § 1, 5-6-2013, Doc. #1305061204)

### Sec. 59.102. - Exempt Development.

*Building Permit Issued Prior to Effective Date of Chapter.* Development pursuant to a building permit issued prior to January 1, 1992 and consistent with the adopted Growth Management Plan shall be exempt from the requirements of this Chapter provided, however, that no such building permit shall be extended except in conformance with this Chapter. If the Building Official determines a building permit has lapsed or expired, pursuant to Chapter 13 of the Orlando City Code, then no subsequent building permit shall be issued except in accordance with this Chapter. In addition, if the Planning Official determines that the developer is proposing a change in the plan of development resulting in impacts on public facilities and services greater than those impacts caused by the previously permitted development, then no such change shall be approved except in accordance with this Chapter.

*One and Two Family Residential Subdivisions with Final Plats Recorded Before Effective Date.* Development pursuant to a final plat of a single or two-family residential subdivision recorded prior to January 1, 1992 and consistent with the adopted Growth Management Plan shall be exempt from the requirements of this Chapter.

#### ~~*De Minimis Development.*~~

~~*Inside the Traditional City: After the effective date of this Chapter, new development, redevelopment (including changes of use) or additions or improvements inside the Traditional City, as defined in Chapter 58 of this Code, which does not exceed a net increase of forty (40) vehicle trips per day shall be presumed exempt from the requirements of this Chapter except for the mandatory transportation mobility requirements established in Section 59.209(f), City Code.*~~

~~*Outside the Traditional City: New development, redevelopment, additions or improvements outside the Traditional City which does not exceed a net increase of twenty (20) vehicle trips per day shall be presumed exempt from the requirements of this Chapter with the*~~

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~~exception of the mandatory transportation mobility requirements established in Section 59.209(f), City Code.~~

*Exempt Permits.* The following types of permits are hereby determined to be exempt from the Concurrency evaluation process contained in this Chapter with respect to ~~Public Transportation~~, Stormwater, Potable Water, Parks, Schools and Solid Waste because they do not create additional impacts on those public facilities or determine the density and intensity of development.

Administrative appeal.

Variance.

Tree removal permit.

Sign permit.

Public right-of-way or easement abandonment.

Fence permit.

~~Painting permit.~~

Demolition permit.

Swimming pool/spa permit.

Driveway and sidewalk permit.

Residential accessory structures (except as otherwise described in this Chapter).

Interior alterations with no change of use.

Plumbing permit.

Electrical permit.

Air conditioning permit.

Roof permit.

Mechanical permit.

Parking permit.

Excavation permit.

Right of way permit.

Sewer connection permit.

Flood plain permit.

Other uses determined by the Concurrency Management Official not to create additional impacts on public facilities and services.

The above permits shall also be exempt with respect to Wastewater ~~and Roads~~ if it is determined that the particular project for which a permit is sought is exempt from impact fees for Wastewater ~~and Roads~~ pursuant to Chapters ~~30 and 56 respectively~~. (Ord. of 9-16-1991, Doc. #25096; Ord. of 11-16-1992, Doc. #26149; Ord. No. 2013-24, § 1, 5-6-2013, Doc. #1305061204)

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### Sec. 59.106. School Concurrency.

The GMP Public School Facilities Element requires the City of Orlando to coordinate with Orange County Public Schools (OCPS) to implement school concurrency, with the express purpose of ensuring adequate classroom capacity to accommodate impacts of new residential development. The School Concurrency Management System administered by OCPS includes standards and procedures which ensure that new residential development complies with adopted Level of Service (LOS) standards provided in the Amended Interlocal Agreement for

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Public School Facility Planning and Implementation of School Concurrency (Interlocal Agreement) between the City of Orlando and OCPS and as provided in the City's adopted GMP Public School Facilities Element, Capital Improvements Element and Intergovernmental Coordination Element. The City shall coordinate with OCPS to implement and administer the School Concurrency Management System described in the GMP, the Interlocal Agreement, and associated OCPS operational policies and procedures (provided said OCPS policies and procedures do not conflict with the GMP and/or Interlocal Agreement).

**Secs. 59.106107—59.199. - Reserved.**

**PART 2. - LEVEL OF SERVICE STANDARDS FOR CITY SERVICES**

**Sec. 59.200. - Introduction.**

Level of Service (LOS) Standards are an indicator of the degree of service provided by a public facility based on its operational characteristics. LOS shall indicate the capacity per unit of demand for each public facility. The LOS standards shall be used to determine if public facility and services are adequate to support the impact of new development. The City of Orlando Growth Management Plan establishes LOS Standards for roads, wastewater, parks, stormwater, solid waste, potable water, and public transportation. Concurrency applies to wastewater, parks, stormwater, solid waste, and potable water. (Ord. of 9-16-1991, Doc. #25096; Ord. of 11-16-1992, Doc. #26149; Ord. No. 2013-24, § 1, 5-6-2013, Doc. #1305061204)

**Sec. 59.201. - Public Transportation Level of Service.**

Public Transportation level of service standards shall be used to determine whether levels of service for Public Transportation are adequate to support the impacts of new development pursuant to Part 3 of the Chapter City's mobility goals in the Growth Management Plan. This level of service standard does not apply to individual development approvals.

*Public Transportation Level of Service Standards.* Public Transportation level of service shall require that more than 50% of the transit service corridors designated in the City's Growth Management Plan shall strive to maintain or improve a 30-minute weighted average headways. (Ord. of 9-16-1991, Doc. #25096; Ord. of 11-16-1992, Doc. #26149; Ord. No. 2013-24, § 1, 5-6-2013, Doc. #1305061204)

**Sec. 59.202. - Potable Water Level of Service.**

Potable Water level of service standards shall be used to determine whether levels of service for Potable Water are adequate to support the impacts of new development, pursuant to Part 3 of this Chapter.

*Potable Water Level of Service Standards.* Potable Water level of service standards shall be as follows:

| <i>Land Use</i> | <i>Gallons Per Day <u>without Reclaimed Water</u></i> | <i>Gallons Per Day <u>with Reclaimed Water</u></i> | <i>Unit</i>   |
|-----------------|---|--|---------------|
| Single Family   | <u>360—325</u>  | <u>160</u>   | Dwelling unit |
| Multi Family    | <u>259—200</u>  | <u>200</u>   | Dwelling unit |

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|  |      |             |             |
|--|------|-------------|-------------|
| Hotel  | 187  | <u>187</u>  | Room        |
| Commercial   | 0.13 | <u>0.13</u> | Square feet |
| Office   | 0.15 | <u>0.15</u> | Square feet |
| Industrial   | 0.22 | <u>0.22</u> | Square feet |
| Government   | 0.15 | <u>0.15</u> | Square feet |
| Hospital   | 0.22 | <u>0.22</u> | Square feet |
| <u>These LOS standards shall be based on the average day demand.</u> |      |             |             |

| <i>Minimum Pressure</i> | <i>Demand Condition</i> |
|-------------------------|-------------------------|
| 50 psi                  | Average Day             |
| 40 psi                  | Peak Day                |
| 25 psi                  | Peak Day + Fire Flow    |

~~A peak factor of 1.5 shall be used for raw water (wells and treatment) capacity. A peak rate factor of 2.1 shall be used for high service pumping capacity.~~  
 (Ord. of 9-16-1991, Doc. #25096; Ord. of 11-16-1992, Doc. #26149)

**Sec. 59.203. - Solid Waste Level of Service.**

Solid Waste level of service standards shall be used to determine whether levels of service for Solid Waste are adequate to support the impacts of new development, pursuant to Part 3 of this Chapter.

Solid Waste Level of Service Standards. Solid Waste level of service standards shall be as follows:

| <i>Land Use</i>  | <i>Pounds Per Day</i>         | <i>Unit</i>          | <i>Minimum Pickup</i>                                   |
|------------------|-------------------------------|----------------------|---|
| Residential      | <del>4.54</del> <u>8.29</u>   | <u>Dwelling</u> Unit | Twice a Week  |
| Nonresidential   | <del>0.0093</del> <u>9.96</u> | <u>1,000</u> Sq. Ft. | <del>Twice a Week</del> <u>As needed, 6 days a week</u> |
| <del>Hotel</del> | <del>5.70</del>               | <del>Room</del>      | <del>Twice a Week</del>                                 |

(Ord. of 9-16-1991, Doc. #25096; Ord. of 11-16-1992, Doc. #26149)

**Sec. 59.204. - Wastewater Level of Service.**

Wastewater level of service standards shall be used to determine whether levels of service for Wastewater are adequate to support the impacts of new development, pursuant to Part 3 of this Chapter.

Wastewater Level of Service Standards. Wastewater level of service standards shall be as follows:

| <i>Land Use</i> | <i>Gallons Per Day</i>    | <i>Unit</i>   |
|-----------------|---------------------------|---------------|
| Single family   | <del>345</del> <u>250</u> | Dwelling unit |

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|              |                                 |               |
|--------------|---------------------------------|---------------|
| Multi family | <del>248</del> — <del>190</del> | Dwelling unit |
| Office       | <del>0.100</del> .08            | Square feet   |
| Commercial   | <del>0.110</del> .09            | Square feet   |
| Industrial   | <del>0.150</del> .12            | Square feet   |
| Lodging      | <del>150</del> 119              | Room          |
| Hospital     | 0. <del>400</del> 8             | Square feet   |
| Government   | 0. <del>400</del> 8             | Square feet   |

(Ord. of 9-16-1991, Doc. #25096; Ord. of 11-16-1992, Doc. #26149)

**Sec. 59.205. - Parks and Recreation Level of Service.**

Parks and Recreation level of service standards shall be used to determine whether levels of service for Parks and Recreation are adequate to support the impacts of new residential development pursuant to Part 3 of this Chapter.

*Parks and Recreation Level of Service Standard.* Parks and Recreation level of service standards shall be as follows:

3.25 Combined City wide Community/Neighborhood Park Acres per 1,000 Population.

This level of service standard shall be implemented through application of the following performance standards:

0.0084 acres citywide per detached single family residence, including mobile homes.  
0.0067 acres citywide per multi-family residence, including townhomes, duplexes and accessory apartments.

(Ord. of 9-16-1991, Doc. #25096; Ord. of 11-16-1992, Doc. #26149)

**Sec. 59.206. - Stormwater Level of Service.**

Stormwater level of service shall be used to determine whether levels of service for Stormwater are adequate to support the impacts of new development, pursuant to Part 3 of this Chapter.

*Stormwater Level of Service Standards.* Stormwater level of service standards for new development shall be consistent with the ~~Orlando Urban Stormwater Water Management~~Engineering Standards Manual as follows:

| <i>Facility</i> | <i>LOS</i>   |
|-----------------|--|
| City Primary    | Design Storm: 25 year/24 hour.<br>Max. Flood Stage: 100 yr/3 day below flood elevation.<br><u>Max. Hydraulic grade line (HGL): at gutter elevation for 25 year/6 hour storm.</u> |
| City Secondary  | Design Storm: 10 year/6 hour.<br>Max. <del>40-yr Hydraulic grade line (HGL):</del> <u>1'-foot</u> below gutter elevation.  |

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|                                     |   |
|-------------------------------------|---|
|                                     | Check Storm: <del>10-25</del> year/6 hour.<br>Max. <del>Hydraulic Grade Line (HGL)</del> : at gutter elevation.   |
| City Tertiary                       | Design Storm: 10 year/6 hour.<br>Max. <del>25-yr</del> HGL: at <u>1 foot below</u> gutter elevation.  |
|                                     | Check Storm: 25 year/6 hour.<br>Max. HGL: at gutter elevation.  |
| Arterial Road                       | Roadway Section and Inlet Design: 10 year/6 hour storm.<br><u>Minimum 2 feet between seasonal high water table and bottom of base course.</u>   |
| Collector Road                      | Roadway Section and Inlet Design: 5 year/6 hour storm.<br><u>Minimum 1 foot between seasonal high water table and bottom of base course.</u>  |
| Minor Road                          | Roadway Section and Inlet Design: 3 year/6 hour storm.<br><u>Minimum 1 inch between seasonal high water table and bottom of base course.</u>  |
| Travel Lane Spread                  | 12 feet for all roads; roads with parking lane, width measured from face of curb to centerline of the outermost travel lane; clearance between design water surface and top of curb: <u>1 inch</u> .        |
| Maximum Run Distance                | 400 Feet to first Inlet.  |
| Retention Ponds                     | <del>Retain the greater of: first ½ inch of runoff or the first 1 inch of rainfall; separate from detention system.</del> <u>Per Water Management District Criteria.</u>                                    |
| Detention Ponds                     | <del>Design Storm: 25 year/6 hour. Detain the volume necessary to restrict post-development peak runoff to pre-development peak runoff.</del> <u>Per Water Management District Criteria.</u>                |
| Detention Ponds (landlocked basins) | <del>Same as above plus volume storage on-site for the 100 year/24 hour storm.</del> <u>Per Water Management District Criteria.</u>   |
| Floodprone Areas                    | Development allowed in 100 year floodplain with compensatory storage loss <del>and floodstage increases less than one foot from the base elevation for floodplain and no development in the floodway.</del> |

(Ord. of 9-16-1991, Doc. #25096; Ord. of 11-16-1992, Doc. #26149)

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**Sec. 59.301. - Rezoning Applications or Growth Management Plan Amendments Requesting an Increase in Density or Intensity of Development.**

A concurrency evaluation shall be required as part of any application for a zoning map amendment or GMP amendment which, if approved, would increase the intensity or density of development permitted. As part of that concurrency evaluation, the CMO shall determine whether capacity is available to serve both the density and intensity of development which

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would result from the zoning map amendment. The concurrency evaluation shall be submitted as part of the staff analysis to the Municipal Planning Board and shall be considered in determining the appropriateness of the ~~zoning map~~ amendment. (Ord. of 9-16-1991, Doc. #25096; Ord. of 11-16-1992, Doc. #26149)

### ~~Sec. 59.302. -- Reserved. Concurrency Evaluation for Public Transportation.~~

~~The City shall conduct a concurrency evaluation for Public Transportation, as part of the City's annual capacity availability reports. The Public Transportation LOS standard set forth in Section 59.201 of this Chapter shall be implemented and maintained, and concurrency evaluations for Public Transportation shall be conducted, through the application of the weighted headway methodology as described herein.~~

~~The City's Growth Management Plan (GMP) shall list the designated transit corridors, the weighted average headways for each corridor inside the TCEA and the transit routes serving each corridor.~~

~~For the purpose of this section, "Frequency of Service" is expressed in number of transit vehicles per hour and describes how many transit vehicles a person would observe at a particular location in one hour. "Headways" is expressed in minutes and describes the time between two consecutive transit vehicles.~~

~~To calculate the "weighted frequency of service" for a transit corridor, it is necessary to know how many transit routes serve the corridor, what is the frequency (or headways) for each individual route, and what percentage of the corridor's length is served by each route. Transit service route maps and current schedules shall be used to collect this information.~~

~~If the frequency of each route serving a corridor is known, the "weighted corridor frequency" is calculated as follows:~~

$$\text{(% of Corridor covered by Route 1)} \times \text{(# of Transit Vehicles per hour for Route 1)}$$

~~This operation shall be repeated for each route serving the corridor and added together to arrive at the total "weighted frequency of service" for the entire transit corridor. This total will be in "transit vehicles per hour". To determine the total "weighted average headway" by corridor, divide 60 by the "weighted frequency of service" to convert hours into minutes.~~

~~This operation shall be repeated for each designated transit service corridor and the percent of corridors with a total "weighted average headway" of thirty (30) minutes or less shall be calculated.~~

~~*Official Source of Information.* Public transportation performance shall be determined by the City's Transportation Planning Division Manager or his/her designee and shall be based on the most recent transit service route maps and schedules provided to the City from the authorized public transportation agency. Public transportation performance shall be reported in the capacity availability report on an annual basis as set out in this Chapter. Notwithstanding the foregoing, if the capacity availability report reveals a deficient public transportation corridor, the City's Transportation Planning Division staff shall monitor such corridor and direct the implementation of necessary transportation mitigation strategies until the deficiency is corrected.~~

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(Ord. of 9-16-1991, Doc. #25096; Ord. of 11-16-1992, Doc. #26149; Ord. No. 2013-24, § 1, 5-6-2013, Doc. #1305061204)

### Sec. 59.303. - Concurrency Evaluation for Potable Water.

Concurrency evaluations for Potable Water shall be conducted consistent with the LOS standards described in Section 59.202 of this Chapter. For each proposed development, the following information shall be used to determine the impact of development:

- (1) For each land use within the proposed development, the quantity of that land use shall be multiplied by the LOS standard for the relevant land use category as shown in Section 59.202.
- (2) For all land uses not identified in Section 59.202, the CMO shall assign the most relevant land use category based on typical demand for potable water.
- (3) The sum of the demand generated by each land use category within the proposed development shall determine the total quantity of potable water demand.

This impact, plus the impact of potable water demand from all existing, permitted, reserved, encumbered, vested and committed development, shall be compared to existing potable water permitted capacity, as identified in the Annual Capacity Availability Report. If the impacts exceed the capacity, then the proposed development shall be deemed not to be concurrent for Potable Water. Chapter 59, Part 8 addresses the process for property owners to enter a concurrency resolution process to address the deficiency. Alternatively, the property owner may postpone development until the City addresses the deficiency, as described in Chapter 59, Part 7.

The applicant shall also coordinate with the potable water service provider to ensure that adequate capacity is available from the water line that will serve the project. This is defined as maintenance

~~A concurrency evaluation for Potable Water shall be required prior to issuance of a Concurrency Verification Letter or Concurrency Encumbrance Letter. The Potable Water LOS standards shall be implemented, and concurrency evaluations for Potable Water shall be conducted, through application of the following performance standard:~~

- ~~(1) Maintenance of adequate plant capacity; and~~
- ~~(2) Maintenance of minimum line pressure under average daytime demand conditions, measured at the nearest transmission or distribution main, under average daytime demand conditions.~~

~~*Method of Evaluation Prior to Verification Letter.* In performing the concurrency evaluation for Potable Water the City shall determine the maximum amount of Potable Water, in gallons per day, which would be necessary to serve the uses proposed in the application for the Concurrency Verification Letter ("CVL"). If such amount of Potable Water, plus Potable Water which is or will be necessary to serve all existing, permitted, reserved, encumbered, vested and committed development, can be provided while meeting the performance standards set forth in~~



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~~this Section, then the CVL shall so state. If the standards are not met the CVL shall set forth the deficiency.~~

~~*Method of Evaluation Prior to Encumbrance for Building Permit.* In performing the concurrency evaluation for Potable Water, in order to encumber capacity prior to issuance of a building permit, the City shall determine the maximum amount of Potable Water, in gallons per day, which would be necessary to serve the proposed uses. If such amount of Potable Water, plus Potable Water which is or will be necessary to serve all existing, permitted, reserved, encumbered, and committed and vested development, can be provided while meeting the performance standards set forth in this Section, then the development shall be deemed to be concurrent for Potable Water.~~

~~If the amount of Potable Water, plus Potable Water which is or will be necessary to serve all existing, permitted, reserved, and committed and vested development, cannot be provided while meeting the performance standards set forth in this Section, then the proposed development shall be deemed not to be concurrent for Potable Water.~~

~~*Method of Evaluation Prior to Encumbrance for Capacity Reservation.* In performing the concurrency evaluation for Potable Water, in order to encumber capacity prior to a capacity reservation, the City shall determine the maximum amount of potable water, in gallons per day, which would be necessary to serve the proposed uses. If such amount of Potable Water, plus Potable Water which is or will be necessary to serve all existing, permitted, reserved, committed and vested development, can be provided while meeting the performance standards set forth in this Section, then the development shall be deemed to be concurrent for Potable Water, with the condition that the necessary facilities shall be in place when the impacts of the development occur or shall be guaranteed to be in place through an enforceable development order.~~

~~If the amount of Potable Water necessary to serve the proposed development, plus potable water which is or will be necessary to serve all existing, permitted or reserved, encumbered, and committed and vested development cannot be provided while meeting the performance standards set forth in this Section, then the proposed development shall be deemed not to be concurrent for Potable Water.~~

*Official Source of Information.* Potable Water performance capacity shall be determined by the Water Provider (currently the Orlando Utilities Commission) and shall be based on the most recent "Semi-Annual Report" Annual Capacity Availability Report provided to the City, pursuant to interlocal agreement. Potable Water performance capacity shall be reported to the Director of City Planning and Development Division Manager on an semi-annual basis as set out in Part 7 of this Chapter.

(Ord. of 9-16-1991, Doc. #25096; Ord. of 11-16-1992, Doc. #26149)

### **Sec. 59.304. - Concurrency Evaluation for Solid Waste.**

Concurrency evaluations for Solid Waste shall be conducted consistent with the LOS standards described in Section 59.203 of this Chapter. For each proposed development, the following information shall be used to determine the impact of development:

- (1) For each land use within the proposed development, the quantity of that land use shall be multiplied by the LOS standard for the relevant land use category as shown in Section 59.203.

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(2) For all land uses not identified in Section 59.203, the CMO shall assign the most relevant land use category based on typical solid waste generation rates.

(3) The sum of the demand generated by each land use category within the proposed development shall determine the total quantity of solid waste generated.

This impact, plus the impact of solid waste generated by all existing, permitted, reserved, encumbered, vested and committed development, shall be compared to existing solid waste collection fleet capacity, as identified in the Annual Capacity Availability Report. If the impacts exceed the capacity, then the proposed development shall be deemed not to be concurrent for Solid Waste. Chapter 59, Part 8 addresses the process for property owners to enter a concurrency resolution process to address the deficiency. Alternatively, the property owner may postpone development until the City addresses the deficiency, as described in Chapter 59, Part 7.

~~A concurrency evaluation for Solid Waste shall be required prior to issuance of a Concurrency Verification Letter or Concurrency Encumbrance Letter. The Solid Waste LOS standards shall be implemented, and concurrency evaluations for Solid Waste shall be conducted, through application of the following performance standard:~~

~~Up to 100% Fleet Volume Capacity Utilized.~~

~~*Method of Evaluation Prior to Verification Letter.* In performing the concurrency evaluation for Solid Waste the CMO shall determine the maximum amount of Solid Waste, in pounds per day, which would be generated by the uses proposed in the application for the Concurrency Verification Letter ("CVL"). If such amount of Solid Waste, plus Solid Waste which is or will be generated by all existing, permitted, reserved, encumbered, vested, and committed development is equal to or less than the performance standards set forth in this Section, then the CVL shall so state. If the standards are not met the CVL shall set forth the deficiency.~~

~~*Method of Evaluation Prior to Encumbrance for Building Permit.* In performing the concurrency evaluation for Solid Waste, in order to encumber capacity prior to issuance of a building permit, the CMO shall determine the maximum amount of Solid Waste, in pounds per day, which could be generated by the proposed uses. If such amount of Solid Waste, plus Solid Waste which is or will be generated by all existing, committed, reserved, encumbered and vested development is equal to or less than the performance standards set forth in this Section, then the proposed development shall be deemed to be concurrent for Solid Waste.~~

~~If the amount of refuse which would be generated by the proposed development, plus Solid Waste which is or will be generated by all existing, permitted, reserved, encumbered, vested development is greater than one hundred percent (100%) of the fleet volume capacity, then the proposed development shall be deemed not to be concurrent for Solid Waste.~~

~~*Method of Evaluation Prior to Encumbrance for Capacity Reservation.* In performing the concurrency evaluation for Solid Waste, in order to encumber capacity prior a capacity reservation, the CMO shall determine the maximum amount of Solid Waste, in pounds per day, which could be generated by the proposed uses. If such amount of Solid Waste, plus solid waste which is or will be generated by all existing, permitted, reserved, encumbered, vested and committed development is equal or less than one hundred percent (100%) of the fleet volume capacity for the period for which the reservation is sought, then the proposed development shall~~

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~~be deemed to be concurrent for Solid Waste, with the condition that the necessary services shall be in place when the impacts of the development occur or shall be guaranteed to be in place through an enforceable development order.~~

~~If the amount of solid waste which would be generated by the proposed development, plus Solid Waste which is or will be generated by all existing, permitted, reserved, encumbered, vested, and committed development is greater than one hundred percent (100%) of the fleet volume capacity, then the proposed development shall be deemed not to be concurrent for Solid Waste.~~

~~Official Source of Information. Fleet volume capacity shall be determined by the Bureau Chief of the Solid Waste Bureau Division Manager or his designee and shall be reported to the Director of City Planning Division Manager and Development on a semi-annual basis as set out in Part 7 of this Chapter. (Ord. of 9-16-1991, Doc. #25096; Ord. of 11-16-1992, Doc. #26149)~~

### **Sec. 59.305. - Concurrency Evaluation for Wastewater.**

Concurrency evaluations for Wastewater shall be conducted consistent with the LOS standards described in Section 59.204 of this Chapter. For each proposed development, the following information shall be used to determine the impact of development:

- (1) For each land use within the proposed development, the quantity of that land use shall be multiplied by the LOS standard for the relevant land use category as shown in Section 59.204.
- (2) For all land uses not identified in Section 59.204, the CMO shall assign the most relevant land use category based on typical demand for wastewater treatment.
- (3) The sum of the demand generated by each land use category within the proposed development shall determine the total quantity of demand for wastewater treatment.

This impact, plus the impact of the demand for wastewater treatment from all existing, permitted, reserved, encumbered, vested and committed development, shall be compared to the existing wastewater treatment plant capacity, as identified in the Annual Capacity Availability Report. If the impacts exceed the capacity, then the proposed development shall be deemed not to be concurrent for Wastewater. Chapter 59, Part 8 addresses the process for property owners to enter a concurrency resolution process to address the deficiency. Alternatively, the property owner may postpone development until the City addresses the deficiency, as described in Chapter 59, Part 7.

The applicant shall also coordinate with the wastewater service provider to ensure that adequate capacity is available from the wastewater line that will serve the project. This is defined as no

A concurrency evaluation for Wastewater shall be required prior to issuance of a Concurrency Verification Letter or Concurrency Encumbrance Letter. The Wastewater LOS standards shall be implemented, and concurrency evaluations for Wastewater shall be conducted, through application of the following performance standards:

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~~(1) No more than 90% of line capacity is used; and, If adequate wastewater line capacity is not available, the applicant shall coordinate with the utility provider to determine how to address the deficiency.~~

~~(2) Adequate plant capacity exists.~~

~~*Method of Evaluation Prior to Verification Letter.* In performing the concurrency evaluation for Wastewater, in preparing a Concurrency Verification Letter ("CVL"), the CMO shall determine the maximum amount of Wastewater, in gallons per day, which would be generated by the uses proposed in the application for the Concurrency Verification Letter. If such amount of Wastewater, plus Wastewater which is or will be generated by all existing, permitted, reserved, encumbered, vested and committed development, can be accommodated while meeting the performance standards set forth in this Section, then the CVL shall so state. If the standards are not met the CVL shall set forth the deficiency.~~

~~*Method of Evaluation Prior to Encumbrance for Building Permit.* In performing the concurrency evaluation for Wastewater, in order to encumber capacity prior to issuance of a building permit, the CMO shall determine the maximum amount of Wastewater, in gallons per day, which would be generated by the proposed uses. If such amount of Wastewater, plus Wastewater which is or will be generated by all existing, permitted, reserved, encumbered, vested and committed development, can be accommodated while meeting the performance standards set forth in this section, then the project shall be deemed to be concurrent for Wastewater and a Concurrency Encumbrance shall be issued for Wastewater.~~

~~If the amount of Wastewater which would be generated by the proposed development, plus Wastewater which is or will be generated by all existing, permitted, reserved, encumbered, vested and committed development cannot be accommodated while meeting the performance standards set forth in this Section, then the project shall not be deemed to be concurrent for Wastewater and a Concurrency Encumbrance shall not be issued for Wastewater.~~

~~*Method of Evaluation Prior to Encumbrance for Capacity Reservation.* In performing the concurrency evaluation for Wastewater, in order to encumber capacity prior to a capacity reservation, the CMO shall determine the maximum amount of Wastewater, in gallons per day, which could be generated by the proposed uses. If such amount of Wastewater, plus Wastewater which is or will be generated by all existing, permitted, reserved, vested and committed development can be accommodated while meeting the performance standards set forth in this section, then the project shall be deemed to be concurrent for Wastewater and a Concurrency Encumbrance shall be issued for Wastewater, with the condition that the necessary services shall be in place when the impacts of the development occur or shall be guaranteed to be in place through an enforceable development order.~~

~~If the amount of Wastewater which would be generated by the proposed development, plus Wastewater which is or will be generated by all existing, permitted, reserved, encumbered, vested and committed development cannot be accommodated while meeting the performance standards set forth in this section, then the project shall not be deemed to be concurrent for wastewater and a Concurrency Encumbrance shall not be issued for Wastewater.~~

~~*Official Source of Information.* Line capacity and plant capacity shall be determined by the Bureau Chief of the Wastewater Division Manager Bureau or his designee and shall be reported~~

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to the ~~Director of City Planning Division Manager and Development~~ on an ~~semi~~-annual basis as set out in Part 7 of this Chapter.  
(Ord. of 9-16-1991, Doc. #25096; Ord. of 11-16-1992, Doc. #26149)

### Sec. 59.306. - Concurrency Evaluation for Parks and Recreation.

Concurrency evaluations for parks and recreation shall be conducted consistent with the LOS standards described in Section 59.205 of this Chapter. For each proposed development, the following information shall be used to determine the impact of development:

- (1) For each residential land use within the proposed development, the quantity of that land use shall be multiplied by the LOS standard for the relevant land use category as shown in Section 59.205.
- (2) For a residential land use not identified in Section 59.205, the CMO shall assign the most relevant land use category based on typical demand for parks and recreation.
- (3) The sum of the demand generated by each residential land use category within the proposed development shall determine the total quantity of demand for parks and recreation.
- (4) Non-residential land uses are not subject to concurrency for parks and recreation.

This impact, plus the impact of the demand for parks and recreation from all existing, permitted, reserved, encumbered, vested and committed development, shall be compared to the existing citywide parks and recreation capacity, as identified in the Annual Capacity Availability Report. If the impacts exceed the capacity, then the proposed development shall be deemed not to be concurrent for parks and recreation. Chapter 59, Part 8 addresses the process for property owners to enter a concurrency resolution process to address the deficiency. Alternatively, the property owner may postpone development until the City addresses the deficiency, as described in Chapter 59, Part 7.

~~A concurrency evaluation for Parks and Recreation shall be required prior to issuance of a Concurrency Verification Letter or a Concurrency Encumbrance Letter for any residential development. The Parks and Recreation LOS standards shall be implemented, and concurrency evaluations for Parks and Recreation shall be developed through application of the following performance standards:~~

- ~~.0084 acres citywide per single family residence, including mobile homes.~~
- ~~.0067 acres citywide per multi-family residence.~~

~~*Method of Evaluation Prior to Verification Letter.* In performing the concurrency evaluation for Parks and Recreation, in preparing a Concurrency Verification Letter, the CMO shall determine the number of acres of parkland which would be necessary to serve the number of dwelling units on the site. If such amount of parkland, plus parkland which is or will be necessary to serve all existing, permitted, reserved, encumbered, vested and committed development, can be provided, then the CVL shall so state.~~

~~If the number of acres of parkland which would be necessary to serve the number of dwelling units on the site, plus parkland which is or will be necessary to serve all existing,~~

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~~permitted, reserved, encumbered, vested and committed development, cannot be provided, then the CVL shall set forth the deficiency.~~

~~*Method of Evaluation Prior to Encumbrance for Building Permit.* In performing the concurrency evaluation for Parks and Recreation, in order to encumber capacity prior to issuance of a building permit, the CMO shall determine the number of acres of parkland which would be necessary to serve the number of dwelling units on the site. If such amount of parkland, plus parkland which is or will be necessary to serve by all existing, permitted, reserved, encumbered, vested and committed development, can be provided while meeting the performance standards set forth in this section, or guaranteed in an enforceable development order, then the project shall be deemed to be concurrent for Parks and Recreation and a Concurrency Encumbrance shall be issued for Parks and Recreation.~~

~~If such amount of parkland, plus parkland which is or will be necessary to serve all existing, permitted, reserved, encumbered, vested and committed development, cannot be provided while meeting the performance standards set forth in this section, then the project shall not be deemed to be concurrent for Parks and Recreation and a Concurrency Encumbrance shall not be issued for Parks and Recreation.~~

~~*Method of Evaluation Prior to Encumbrance for Capacity Reservation.* In performing the concurrency evaluation for Parks and Recreation, in order to encumber capacity prior to issuance of a capacity reservation certificate, the CMO shall determine the number of acres of parkland which would be necessary to serve the number of dwelling units on the site. If such amount of parkland, plus parkland which is or will be necessary to serve all existing, permitted, reserved, encumbered, vested and committed development, can be provided while meeting the performance standards set forth in this section, then the project shall be deemed to be concurrent for Parks and Recreation and a Capacity Reservation Certificate shall be issued for Parks and Recreation, with the condition that the necessary services shall be in place when the impacts of the development occur or shall be guaranteed to be in place through an enforceable development order.~~

~~If such amount of parkland, plus parkland which is or will be necessary to serve all existing, permitted, reserved, encumbered, vested and committed development, can not be provided while meeting the performance standards set forth in this section, then the project shall be deemed not to be concurrent for Parks and Recreation and a Capacity Reservation Certificate shall not be issued for Parks and Recreation.~~

~~*Official Source of Information.* Citywide Ppark acreage shall be determined by the Families, Parks and Recreation Director or his designee and shall be reported to the Division Director of City Planning Division Manager on an semi-annual basis as set out in Part 7 of this Chapter. (Ord. of 9-16-1991, Doc. #25096; Ord. of 11-16-1992, Doc. #26149; Ord. of 1-12-2004, § 7, Doc. #040112905)~~

### **Sec. 59.307. - Concurrency Evaluation for Stormwater.**

The City's adopted LOS for Stormwater, as shown in Section 59.206, applies to requirements for new development. All new development is required to include a stormwater management system that meets City Code, Chapter 31. Therefore, all new development that receives the appropriate stormwater management permits is deemed to be concurrent.

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Existing development, upon substantial improvement or substantial enlargement is required to meet the criteria for new development. Therefore, such improvement to existing development is deemed to be concurrent.

~~A concurrency evaluation for Stormwater shall be required prior to issuance of a Concurrency Verification Letter or Concurrency Encumbrance Letter. The Stormwater LOS standards shall be implemented, and concurrency evaluations for Stormwater shall be conducted, through application of the greater of the following performance standards:~~

- ~~a) retention of the 1st ½ inch of runoff, or~~
- ~~b) the runoff from the 1st inch of rainfall.~~

~~*Method of Evaluation Prior to Verification Letter.* In performing the concurrency evaluation for Stormwater, in order to issue a Concurrency Verification Letter ("CVL"), the CMO shall determine retention facilities needed to be retained on site to comply with the performance standards set forth in this Section. Detention facilities shall detain on site sufficient volume to attenuate post development peak runoff to the pre-development peak runoff. If such amount of Stormwater, can be accommodated on the site in accordance with the Orlando Urban Stormwater Management Manual ("OUSWMM"), then a Concurrency Verification shall be issued stating as such. If the performance standards cannot be met the CVL shall set forth the deficiency.~~

~~*Method of Evaluation Prior to Encumbrance for Building Permit.* In performing the concurrency evaluation for Stormwater, in order to encumber capacity prior to issuance of a building permit, the CMO shall determine whether retention facilities meet the performance standards set forth in this Section. If the amount of Stormwater cannot be accommodated in accordance with the Orlando Urban Stormwater Management Manual, then a Concurrency Encumbrance shall not be issued for Stormwater.~~

~~Detention facilities shall detain on site sufficient volume to attenuate post development peak runoff to the pre-development peak runoff. If such amount of Stormwater can be accommodated on the site in accordance with the Orlando Urban Stormwater Management Manual, then a Concurrency Encumbrance shall be issued for Stormwater.~~

~~*Method of Evaluation Prior to Encumbrance for Capacity Reservation.* In performing the concurrency evaluation for Stormwater, in order to encumber capacity prior to a capacity reservation, the CMO shall determine whether retention facilities shall meet the performance standards set forth in this Section. If the amount of stormwater cannot be accommodated in accordance with the Orlando Urban Stormwater Management Manual, then a Concurrency Encumbrance shall not be issued for Stormwater.~~

~~Detention facilities shall detain on site sufficient volume to attenuate post development peak runoff to the pre-development peak runoff. If such amount of Stormwater can be accommodated on the site in accordance with the Orlando Urban Stormwater Management Manual, then a Concurrency Encumbrance shall be issued for Stormwater.~~

~~If the applicant does not provide information deemed sufficient by the City Engineer to determine whether stormwater can be accommodated on the site in accordance with the Orlando Urban Stormwater Management Manual, then a Concurrency Encumbrance may~~

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~~nevertheless be issued for stormwater if the applicant agrees that prior to issuance of a final local development order he shall comply with the requirements of OUSWMM. Such agreement shall be in writing in a form acceptable to the City Attorney, and shall be recorded at the applicant's expense in the public records of Orange County.~~

*Official Source of Information.* The City Engineer is hereby designated as the administrative official responsible for determining whether the requirements of this Section have been met. (Ord. of 9-16-1991, Doc. #25096; Ord. of 11-16-1992, Doc. #26149)

\* \* \* \* \*

### **Sec. 59.401. - Application for a Concurrency Verification Letter.**

An application for a Concurrency Verification Letter shall be submitted to the CMO and accompanied with a fee, which shall be set by resolution as determined by City Council from time to time. Any applicant seeking a Concurrency Verification Letter shall submit the following information to the CMO, on a form prescribed by the CMO. No such application shall be deemed accepted until it is complete.

- 1) Date of submittal.
  - 2) Applicant's name, address and telephone number.
  - 3) Parcel I.D. number, street address, and legal description.
  - 4) Proposed use(s) by land use category, square feet and number of units.
  - 5) Phasing information by proposed uses, square feet and number of units, if applicable.
  - 6) Existing use of property.
  - 7) Acreage of property.
  - 8) Name of DRI, PD, subdivision, office park, or master plan, if applicable.
  - 9) Site design information, if applicable.
  - 10) Whether sewer wastewater capacity has been reserved for the proposed development.
- (Ord. of 9-16-1991, Doc. #25096; Ord. of 11-16-1992, Doc. #26149)

\* \* \* \* \*

### **Sec. 59.500. - Introduction.**

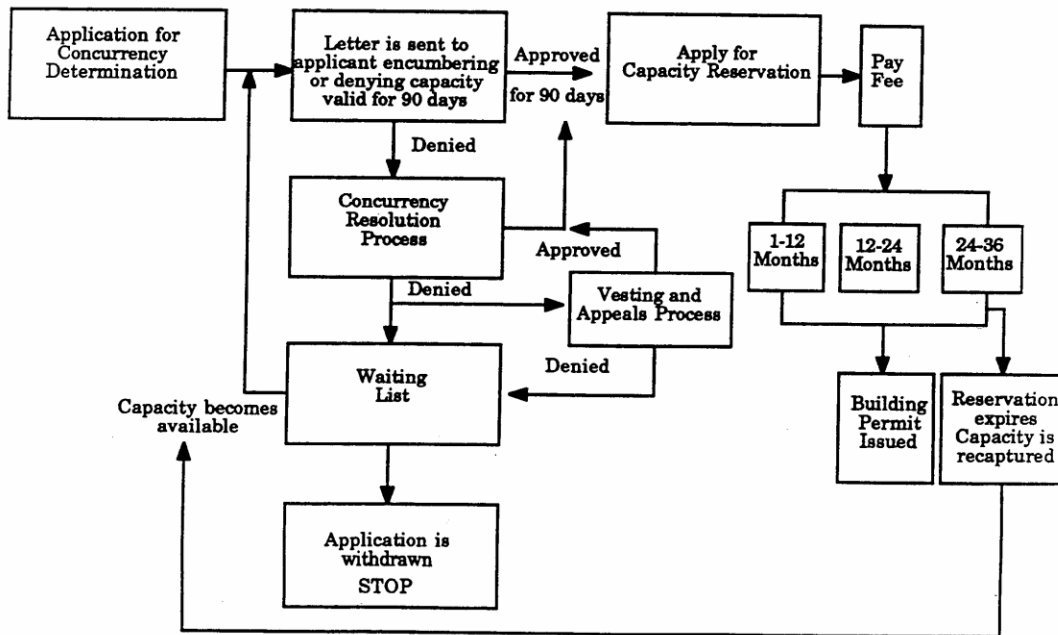
A Concurrency Encumbrance Letter (CEL) is a determination by the Concurrency Management Official that, for a particular parcel, given a specific proposed development density or intensity ~~and based on the timing of development by phase and year~~, a concurrency evaluation indicates that the proposed development will be concurrent at the time the Concurrency Encumbrance Letter is issued and that the CMO has encumbered requested public facility or service capacity as a prerequisite to a Capacity Reservation or upon issuance of a building permit. A Concurrency Encumbrance Letter is a prerequisite to a Capacity Reservation Certificate. In no event shall an applicant encumber a greater amount of capacity than that necessary to serve the maximum amount of development permitted on the site under its current zoning classification. This Part shall not apply to Transportation concurrency. (Ord. of 9-16-1991, Doc. #25096; Ord. of 11-16-1992, Doc. #26149; Ord. No. 2013-24, § 1, 5-6-2013, Doc. #1305061204)

### **Sec. 59.501. - Procedure for Concurrency Encumbrance Letter Evaluations.**



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Within twenty (20) working days after receipt of an application for a CEL, the Concurrency Management Official shall process the application, conduct a concurrency evaluation in accordance with Part 2 of this Chapter, and issue Concurrency Encumbrance Letters or Concurrency Encumbrance Denial Letters according to the following procedure:



A Concurrency Encumbrance Letter dated prior to July 1, 2010, shall be valid for three hundred and sixty-five (365) days from the date of the letter, referred to as the Encumbrance Period, and shall expire at the end of the Encumbrance Period unless the applicant obtains a Capacity Reservation Certificate or is issued a building permit during the Encumbrance Period. See Part 6. A Concurrency Encumbrance Letter dated subsequently to July 1, 2010, shall be valid for ninety (90) days from the date of the letter, referred to as the Encumbrance Period, and shall expire at the end of the Encumbrance Period unless the applicant obtains a Capacity Reservation Certificate or is issued a building permit during the Encumbrance Period. See Part 6.

*Application for a Concurrency Encumbrance Letter.* An application for a Concurrency Encumbrance Letter (CEL) shall be accompanied with a CEL fee, which shall be set by resolution as determined by City Council from time to time. Any applicant seeking a Concurrency Encumbrance Letter shall submit the following information to the CMO, on a form provided by the CMO. No such application shall be deemed accepted until it is complete.

- 1) Property owner's name, address and telephone number.
- 2) Applicant's name, address and telephone number.
- 3) Parcel I.D. number and legal description.
- 4) Proposed use(s) by land use category, square feet and number of units.
- 5) Phasing information by proposed uses, square feet and number of units, if applicable.
- 6) Existing use of property.
- 7) Acreage of property.

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- 8) Name of DRI, PD, subdivision, office park, or master plan, if applicable.
- 9) Site design information, if applicable.
- 10) Whether sewer wastewater capacity has been reserved for the proposed development.
- 11) Written consent of the property owner, if different from applicant.
- 12) Whether the applicant will seek to reserve capacity or to obtain a building permit during the encumbrance period and proposed length of reservation, if applicable.
- 13) Proposed allocation of capacity by legal description, if applicable.

*Action by CMO if all Public Facilities and Services are Found to be Concurrent.* If, during the concurrency evaluation, the CMO determines that all public facilities and services are concurrent, concurrent with conditions, or are presumed to be concurrent pursuant to Parts 3 and 5 of this Chapter, the CMO shall issue the CEL, which shall advise the applicant that capacity is available for reservation or for issuance of a building permit. The date issued shall be deemed to be the date on the CEL. If the applicant seeks a reservation during the encumbrance period, capacity shall only be encumbered in accordance with Part 6 of this Chapter. If the applicant is not the property owner, a copy of the CEL shall also be sent to the property owner. At a minimum, the Concurrency Encumbrance Letter shall include:

- 1) Property owner's name, address and telephone number; and
- 2) Applicant's name, address and telephone number; and
- 3) Concurrency Management Account Number; and
- 4) Proposed use(s) by land use category, square feet and number of units; and
- 5) The date the CEL was issued; and
- 6) The date upon which the CEL expires unless the encumbered capacity is reserved or unless a building permit is issued prior to the CEL's expiration.

(Ord. of 9-16-1991, Doc. #25096; Ord. of 11-16-1992, Doc. #26149; Ord. of 6-22-2009, § 1, Doc. #0906221104)

\* \* \* \* \*

### **Sec. 59.505. - Capacity Waiting List.**

Applicants who receive a Capacity Encumbrance Denial Letter due to insufficient capacity within an applicable service area shall, unless they otherwise elect, be placed on the appropriate capacity waiting list. Projects on said list shall be offered capacity as it becomes available on a "first come, first served" basis. If the available capacity is insufficient to accommodate the project as a whole, the CMO shall offer available capacity to the applicant. The applicant may reserve the available capacity and remain in place on the waiting list, and continue waiting for additional capacity or reject the offer and remain on the waiting list and the available capacity shall be offered to the next applicant on the waiting list. The applicant must either accept or reject the offer within ten (10) working days. Failure to obtain a Capacity Reservation Certificate within thirty (30) calendar days of acceptance of an offer shall result in removal of applicant from the waiting list. ~~If there are applicants remaining on the Waiting List at the end of a particular year they will automatically be placed on the next year's Waiting List. Such placement will not automatically be at the top of the next year's list but rather will be based on the date of application to encumber capacity.~~

(Ord. of 9-16-1991, Doc. #25096; Ord. of 11-16-1992, Doc. #26149)

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\* \* \* \* \*

### Sec. 59.603. - Reservation Time Period.

Capacity shall be reserved for a specified time frame under certain conditions. Pursuant to Section 59.601(13), an applicant may request one of two different types of capacity reservations:

- ~~1. *Fixed Time Frame CRC.* A *Fixed Time Frame* Capacity Reservation Certificate shall allow the applicant to reserve infrastructure capacity for up to three years. Reservations may be made for one, two or three years. A specific quantity of capacity must be requested for each individual year of the reservation time frame. Capacity for *Fixed Time Frame Certificates* shall be reserved based on the standards and criteria for Concurrency Evaluations identified in Part 3 of this Chapter. For accounting purposes, the Concurrency Management Officer (CMO) shall reserve the requested capacity for each year from the appropriate capacity bank for the timeframe specified in the approved capacity reservation certificate. If approved, a *Fixed Time Frame CRC* will allow the applicant to utilize the capacity only during the one-year period specified on the certificate.~~
- ~~2. *Flexible Time Frame CRC.* A *Flexible Time Frame* Capacity Reservation Certificate shall allow the applicant to reserve infrastructure capacity for up to three years based on the standards and criteria for Concurrency Evaluations identified in Part 3 of this Chapter. Reservations can be made for two or three years in duration. The total capacity requested may be used at any time during the full duration of the reservation. However, for accounting purposes, the CMO may allocate the requested capacity equally for each year from the appropriate capacity bank. If approved, a *Flexible Time Frame CRC* will allow the applicant to utilize the capacity at any time during the term of the certificate.~~
- ~~3. *Limit on Reservation of Non-Current Year Capacity.* In no event shall the CMO allow the reservation of more than ninety percent (90%) of the allocated available capacity of any non-current year public facility.~~
- ~~4. *Reservation in Excess of Three Years.* A reservation agreement may extend for a period in excess of three (3) years if it is approved in conjunction with a master plan.~~
- ~~5. *Extension Requests Prior to December 31, 2010.* Prior to expiration of a Capacity Reservation Certificate (CRC) or the reservation of transportation capacity contained in a reservation agreement, but in no event later than December 31, 2010, an applicant may request in writing to the Transportation Official, that the CRC or the reservation of transportation capacity contained in a reservation agreement, be extended for three years from the termination date of the CRC or the reservation of capacity contained in the reservation agreement. Upon the Transportation Official's determination that the applicant is otherwise in compliance with the terms and requirements of this Chapter and the CRC or the reservation agreement, the extension shall be granted. The extension will not otherwise affect or impact the terms and requirements of this Chapter, the CRC or the reservation agreement, including any payment schedule, which terms and requirements remain effective and constitute a condition of the extension.~~

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*Expiration.* Upon expiration of the time frame set forth in the Capacity Reservation Certificate, if a building permit was not obtained within the reservation period, the Concurrency Management Official shall transfer the reserved capacity to the available capacity bank. (Ord. of 9-16-1991, Doc. #25096; Ord. of 11-16-1992, Doc. #26149; Ord. of 12-13-1993, Doc. #27098; Ord. of 10-5-2009, § 8, Doc. #0910051104)

**Sec. 59.604. - Capacity Reservation Fees for ~~Fixed Time Frame~~ Capacity Reservation Certificates.**

A capacity reservation fee shall be required for all capacity reservation certificates. ~~transportation and wastewater.~~ A reservation fee equivalent to 33% of ~~transportation and~~ estimated sewer impact fees shall be paid in order to reserve capacity for up to one year. A reservation fee equivalent to 67% of ~~transportation impact fees and 33% of~~ estimated sewer impact fees shall be paid in order to reserve capacity up to two years and a reservation fee equivalent to 100% of ~~transportation impact fees and 33% of~~ estimated sewer impact fees shall be paid in order to reserve capacity up to three years. At the time of application for a Capacity Reservation Certificate, the applicant shall be required to pay the reservation fee and a separate Reservation Administration Fee as a condition of capacity reservation. If the applicant is not reserving capacity for ~~his-the~~ entire project ~~his-the~~ fees shall only be for the actual capacity being reserved and not for the entire project. The applicant shall have 90 calendar days from issuance of a Concurrency Encumbrance Letter to remit all fees. Failure to make payment within this time frame shall be deemed to be a withdrawal of the application for CRC and the CMO shall remove the encumbered capacity from the encumbered capacity bank.

The applicant shall be required to pay all sewer ~~and transportation~~ impact fees due at the time of, and as a condition of, receiving a building permit, pursuant to the impact fee rate schedule in effect at the time a building permit is issued. However, the reservation fee ~~for transportation and sewer~~ shall be credited toward ~~transportation and~~ sewer impact fees applicable at time of building permit on a dollar-for-dollar basis. No credit is allowed for the Reservation Administration Fee.

|                                 | <i>Reservation Fees</i>                                    |  |  |
|---------------------------------|--|--|--|
|                                 | <u>Up to 1 Year-1</u>                                      | <u>Up to 2 Years-2</u>   | <u>Up to 3 Years-3</u>   |
| <u>Reservation Fee</u> equal to | 33% of <u>sewer</u> impact fees                            | 67% of <del>transportation impact fees</del><br><del>33%</del> sewer impact fees | 100% of <del>transportation impact fees</del><br><del>33% of</del> sewer impact fees |
| <u>Administration Fee</u>       | <u>2% of reservation fee or \$2,000, whichever is less</u> | <u>2% of reservation fee or \$2,000, whichever is less</u>                       | <u>2% of reservation fee or \$2,000, whichever is less</u>                           |
| Possible refund                 | 90% refund <u>of reservation fee</u>                       | 80% refund <u>of reservation fee</u>   | 70% refund <u>of reservation fee</u>   |

(Ord. of 9-16-1991, Doc. #25096; Ord. of 11-16-1992, Doc. #26149)

**Sec. 59.605. - ~~Shifting of Capacity Under Fixed Time Frame~~ Capacity Reservation Certificate. Reserved.**

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~~Shifting of capacity is the movement of reserved infrastructure capacity from one or more specific yearly time frames to other subsequent specific yearly time frames. In order to shift capacity, an application to shift capacity with a nonrefundable and non-creditable administrative fee as set from time to time by the City Council shall be submitted to the CMO at least forty-five (45) calendar days prior to the expiration of the calendar year for which such capacity has been reserved. In evaluating an application to shift capacity, the CMO shall consider:~~

- ~~(1) The project's current status and degree to which the applicant is deviating from his phasing schedule; and~~
- ~~(2) Stated reasons for the deviation from the phasing schedule; and~~
- ~~(3) Funds expended by the applicant prior to the initiation of vertical construction.~~

~~Where necessary to ensure equitable allocation of capacity, the CMO may approve an application to shift capacity with conditions. If an application to shift capacity is denied or if the applicant disagrees with the conditions, the denial or the conditions may be appealed to the Planning Official. No capacity may be shifted more than one year per application and in no event may capacity be shifted more than one year beyond the year for which it was initially reserved. Capacity shall not be shifted if there is a waiting list in that district.~~

~~If an application to shift capacity is approved the applicant shall have thirty (30) calendar days from the date of approval to pay a shifting fee. The shifting fee shall be the equivalent of one-third (1/3) of the impact fees associated with the capacity shifted. Shifting fees shall be non-refundable but shall be credited against impact fees at the time of permitting. (Ord. of 9-16-1991, Doc. #25096; Ord. of 11-16-1992, Doc. #26149; Ord. of 12-13-1993, Doc. #27098; Ord. No. 2013-24, § 1, 5-6-2013, Doc. #1305061204)~~

### **Sec. 59.606. — Reserved Capacity Reservation Fees for Flexible Time Frame Certificates.**

~~Capacity reservation fees shall be the same as those required for Fixed Time Frame Certificates except that the reservation fee equivalent to the transportation impact fee shall be 1.5 times the fee assessed for Fixed Time Frame Certificates. The additional 50% surcharge is nonrefundable. All other terms and conditions of the fee structure shall be the same as described in Section 59.604.~~

~~(Ord. of 9-16-1991, Doc. #25096; Ord. of 11-16-1992, Doc. #26149)~~

### **Sec. 59.607. - Extension of ~~Flexible Time Frame~~ Capacity Reservation Certificates.**

*Extensions.* Up to thirty (30) calendar days before the expiration date of a ~~Flexible Time Frame~~ Capacity Reservation Certificate, the applicant may request an extension, not to exceed twelve (12) months. Any extension shall be contingent upon payment of an additional reservation fee ~~(equivalent to 1/3 of the transportation and sewer impact fees) for one (1) year as set forth in this Section. If the Capacity Reservation Certificate was issued less than three years ago, the extension fee is as set forth for a reservation in Section 59.604. If the Capacity Reservation Certificate was issued three or more years ago, the additional one-year reservation fee shall be an administrative fee of 2% of the sewer impact fee, or \$2,000, whichever is less; and the possible refund of the sewer impact fee shall be reduced by 10%.~~ The CMO shall determine whether the extension is warranted, based on the following criteria:

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- 1) Size of the project and the amount of capacity requested. A limit may be put on the amount of capacity that may be extended; and
- 2) Phasing; and
- 3) Location of the project; and
- 4) Capacity availability within the service area; and
- 5) Reasons for requesting the reservation time period extension; and
- 6) Whether developer exercised good faith in attempting to acquire a building permit.

The ~~extension-administration~~ fee ~~shall be~~ nonrefundable ~~but shall and cannot~~ be credited against impact fees at the time of permitting.  
(Ord. of 9-16-1991, Doc. #25096; Ord. of 11-16-1992, Doc. #26149)

### **Sec. 59.608. - ~~Refund of Reservation Fee~~ Reserved.**

~~Reservation fees shall be refundable, subject to a charge for administrative costs and as set forth in this paragraph. The City shall refund 90% of the reservation fee if the capacity was reserved for 12 months or less. The City shall refund 80% of the reservation fee for a two-year (24 months) reservation period, and a 70% refund for a three-year (36 months) reservation period. Refunds shall be granted only to the extent that new reservation fees in the applicable TPD are received by the City to refund the surrendered Capacity Reservation Certificate. Those applicants awaiting refunds shall be placed on a list and their fees refunded on a first come first served basis. This refund policy shall apply only to the transportation portion of said fees. Sewer reservation fees shall remain refundable in accordance with the Sewer Service Policy.~~  
(Ord. of 9-16-1991, Doc. #25096; Ord. of 11-16-1992, Doc. #26149)

### **Sec. 59.609. - Transfer of Certificates.**

All certificates are valid only for the specific property described in the original application. Capacity may be reassigned or allocated within the boundaries of the original reservation certificate by application to the CMO. At no time may capacity or any certificate be sold or transferred to another party or entity without the real property described in the original application.  
(Ord. of 9-16-1991, Doc. #25096; Ord. of 11-16-1992, Doc. #26149)

### **Secs. 59.610—59.699. - Reserved.**

## **PART 7. - CONCURRENCY ADMINISTRATION FOR CITY SERVICES**

### **Sec. 59.700. - Concurrency Management Official.**

The Concurrency Management Official (CMO) shall be the Planning Official or his/her designee for the administration of this Chapter. Appeals of the CMO's determinations shall be made according to the procedures set forth in Chapter 65. This Part shall not apply to Transportation concurrency.  
(Ord. of 9-16-1991, Doc. #25096; Ord. of 11-16-1992, Doc. #26149; Ord. No. 2013-24, § 1, 5-6-2013, Doc. #1305061204)

### **Sec. 59.701. - Capacity Banks.**

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There are hereby established six (6) capacity banks, to be utilized by the CMO in the implementation of this Chapter: the available capacity bank, the permitted capacity bank, the encumbered capacity bank, the reserved capacity bank, vested capacity bank, and the committed capacity bank. The CMO may place a percentage of the ~~annual~~ capacity allocation ~~each year~~ into the committed capacity bank and designate it for use for low and moderate income housing. The percentage shall be as adopted from time to time by resolution of City Council consistent with the Growth Management Plan. Only the CMO or ~~his~~ designee shall be authorized to transfer capacity between banks. The capacity banks allow capacity to be transferred among the various categories. Capacity refers to the ability or availability of a public facility or service to accommodate users, expressed in an appropriate unit of measure, such as gallons per day, and consistent with adopted level of service standards or average daily trip ends. Available capacity represents a specific amount of capacity that may be encumbered by, reserved by or committed to future users of a public service or facility. Capacity is withdrawn from the available capacity bank and deposited into an encumbered capacity bank when a Concurrency Encumbrance Letter is issued, and then into the reserved capacity bank when a Capacity Reservation Certificate is issued, and is transferred to the permitted capacity bank when a building permit is issued. If a CEL, CRC, or building permit expires, capacity shall be transferred back to the available capacity bank. Once a certificate of occupancy is issued, the associated capacity is transferred out of the banks and the land use becomes part of the existing demand for public services, as reported each year in the Capacity Availability Report. Each capacity bank of available, encumbered, permitted, reserved, vested and committed capacity will experience deposits and withdrawals on a regular basis.

By January 1 of each year the City shall adopt new allocations of capacity, consistent with the findings of the Annual Capacity Availability Report. Capacity banks shall be adjusted accordingly.

(Ord. of 9-16-1991, Doc. #25096; Ord. of 11-16-1992, Doc. #26149; Ord. No. 2013-24, § 1, 5-6-2013, Doc. #1305061204)

### **Sec. 59.702. - Annual Capacity Reporting and Monitoring.**

By September 1 of each year the Concurrency Management Official shall complete an Annual Capacity Availability Report to be presented to the Municipal Planning Board and adopted by City Council. This report shall evaluate development permitting activity for the previous twelve (12) month period and determine existing conditions with regard to available capacity for the following public facilities: roads, public transportation, wastewater, potable water, solid waste, stormwater and parks. The evaluation shall report on capacity used for the previous period and capacity available based on the five year Capital Improvements Element and each public facility using adopted LOS standards. Forecasts shall be based on the most recently updated schedule of capital improvements, growth projections, public facility inventories, and revenue projections and shall, at a minimum, include:

1. A summary of development activity (to include preliminary and final local development orders, vested development, and exempted development).
2. Capacity Reserved (excluding roads and public transportation).
3. Capacity Used (excluding roads and public transportation).
4. Capacity Available (excluding roads and public transportation).
5. Five-year Projected Capacity Analysis based on Capital Improvements Element and land use projections.
6. Estimates of existing LOS deficiencies and LOS deficiencies projected annually over a 5-year period.

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7. Recommendations on amendments to the Capital Improvements Element and to the Annual Budget that are needed to address existing and projected LOS deficiencies.
  8. Analysis of progress towards meeting the transportation mobility strategies identified in the City's Growth Management Plan, Transportation Element.
- (Ord. of 9-16-1991, Doc. #25096; Ord. of 11-16-1992, Doc. #26149; Ord. No. 2013-24, § 1, 5-6-2013, Doc. #1305061204)

### Sec. 59.703. - Annual Evaluation of Available Capacity.

The findings of the Annual Capacity Availability Report shall be considered in preparing the annual update to the Capital Improvements Element and Capital Improvements Program, any proposed amendments to the GMP, and in reviewing development orders during the next period.

Based upon the analysis included in the Annual Capacity Availability Report, the ~~Director~~ City Planning Division Manager shall recommend to the Municipal Planning Board and City Council each year, any necessary amendments to the Growth Management Plan. The CMO shall report to the Municipal Planning Board the status of all capacity banks once per year, when public hearings for GMP amendments are heard. Throughout the year, the CMO shall use the findings of the Capacity Availability Report (CAR) to:

- (1) Review development proposals. If a project proposal places demand on facilities, excluding transportation, greater than what is projected in the CAR, the concurrency resolution process may be required prior to encumbering capacity.
- (2) Incorporate allocations of newly constructed capacity into the capacity banks.
- (3) Monitor capacity banks balances to identify potential deficiencies that were not previously identified in the CAR.

(Ord. of 9-16-1991, Doc. #25096; Ord. of 11-16-1992, Doc. #26149; Ord. No. 2013-24, § 1, 5-6-2013, Doc. #1305061204)

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### Sec. 59.803. - The Review Process.

*Concurrency Management Official.* The CMO shall review each application for a concurrency resolution agreement and, within thirty (30) days of the date the application is submitted, shall determine whether the application is sufficient. No application shall be deemed to be sufficient unless it contains all information which, in the professional judgment of the CMO, is reasonably necessary to evaluate the impacts of the proposed development on public facilities and services. Within the thirty (30) day period set out above, the CMO shall notify the applicant that: (a) the application is sufficient or (b) that the application is insufficient and that additional information is required, ~~which may include, but is not limited to, a traffic study.~~ When additional information is required, the applicant and the CMO shall agree on a time frame for its submittal, based on the complexity of the information required. Failure to submit the required information in accordance with that schedule shall result in denial of the Concurrency Resolution Application.



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When the CMO deems the application complete, the application shall be evaluated within forty-five (45) days in accordance with this Part to determine whether the development, as proposed or with conditions, would degrade the LOS set forth in this Chapter. If the CMO determines that the application cannot be approved, even with conditions, the applicant may appeal such denial pursuant to the procedures set forth in Chapter 65. If such development can be approved or approved with conditions, the CMO shall, within the forty-five (45) day period set forth above, issue a Concurrency Resolution Offer to the applicant, which at a minimum shall contain all information contained in a Concurrency Encumbrance Letter and any conditions deemed necessary in order to approve the development. The letter shall specify that the applicant shall have thirty (30) days to either accept the offer or to appeal the conditions to the Planning Official, in accordance with Chapter 65 of this Code. If the applicant accepts the offer, the CMO and the applicant shall agree, in writing, on a timeframe for preparation of a Concurrency Resolution Agreement. This timeframe shall be no less than thirty (30) days and no more than one hundred twenty (120) days. After the Concurrency Resolution Agreement is executed by the applicant, the CMO shall schedule the agreement for the next regularly scheduled City Council meeting, and no such Agreement shall be effective until approved by City Council. ~~Any proposed resolution which would require an amendment to the Trip Allocation Program that exceeds 100% of the annual trip allocation for any given year shall be subject to the provisions of Section 59.704 relating to such amendments.~~

*City Council.* The application and Agreement shall be forwarded to the City Council. Based on the application and the requirements of this Chapter, the City Council shall approve, approve with conditions, or deny the application and Agreement. Following approval of the Agreement by City Council, the Agreement shall be recorded in the public records of Orange County at the expense of the applicant.

*Conditions.* When the City Council approves any Concurrency Resolution Agreement, they may prescribe appropriate conditions and safeguards in conformity with the intent and provisions of this Chapter, including any of the following.

- (a) Limit the manner in which the use is conducted, including restricting the density and intensity of the use.
- (b) Limit the height, size, location, density or intensity of a building or other structure.
- (c) Require phasing of the project.
- (d) Designate the size, number, location or nature of vehicle access points.
- (e) Increase the amount of street dedication, roadway width, or require construction of road improvements within the street right-of-way.
- (f) Protect existing trees, vegetation, water resources, wildlife habitat or other significant natural resources.
- (g) Specify other conditions to permit development of the City in conformity with the intent and purpose of this Chapter and the adopted Growth Management Plan.

Violation of such conditions and safeguards, when made part of the terms under which a Concurrency Encumbrance is approved, shall be deemed a violation of this Chapter subject to enforcement under the provisions of Chapter 5 of the City Code.  
(Ord. of 9-16-1991, Doc. #25096; Ord. of 11-16-1992, Doc. #26149)

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