

CHAPTER 23. CONCURRENCY MANAGEMENT

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CHAPTER 23. CONCURRENCY MANAGEMENT SYSTEM

ARTICLE 1. PURPOSE

The Concurrency Management System shall measure the impact of any proposed development or expansion to an existing development for which a development order is required, upon the established level of service for a roadway, sanitary sewer, solid waste, drainage, potable water and parks/recreation public facility or service. The most current available information and data regarding the above public facilities shall be utilized for concurrency evaluations. No final development order shall be approved unless adequate public facilities and services are available as determined by the Concurrency Management System and the Comprehensive Plan.

ARTICLE 2. REQUIREMENTS.

Sec. 23.2.1. LEVEL OF SERVICE STANDARDS.

23.2.1.1. For the purpose of the issuance of development orders and permits, the City must adopt level of service standards for public facilities and services located within the area for which the City has authority to issue development orders and permits. For the purposes of concurrency, public facilities and services include the following for which level of service standards must be adopted under Chapter 9J-5, F.A.C.:

23.2.1.1.1. Roads, Rule 9J-5.007(3)(c)1.

23.2.1.1.2. Sanitary sewer, Rule 9J-5.011(2)(c)2.a.

23.2.1.1.3. Solid waste, Rule 9J-5.011(2)(c)2.b.

23.2.1.1.4. Drainage, Rule 9J-5.011(2)(c)2.c.

23.2.1.1.5. Potable water, Rule 9J-5.011(2)(c)2.d.

23.2.1.1.6. Parks and recreation, Rule 9J-5.014(3)(c)4.

23.2.1.1.7. Mass transit, Rule 9J-5.008(3)(c)1., if applicable.

23.2.1.2. The capital improvements element must set forth a financially feasible plan which demonstrates that the City can achieve and maintain the adopted level of service standards.

23.2.1.3. In analyzing and establishing its level of service standards for roads, the City must to the maximum extent feasible as determined by the City, adopt level of service standards for state roads that are compatible with the level of service standards established by the Florida Department of Transportation for such roads.

Sec. 23.2.2. MINIMUM REQUIREMENTS FOR CONCURRENCY.

A concurrency management system must be developed and adopted to ensure that public facilities and services needed to support development are available concurrent with the impacts of such developments.

23.2.2.1. For potable water, sewer, solid waste, and drainage, at a minimum, provisions in a comprehensive plan that ensure that the following standards will be met will satisfy the concurrency requirement:

23.2.2.1.1. The necessary facilities and services are in place at the time a development permit is issued; or

23.2.2.1.2. A development permit is issued subject to the condition that the necessary facilities and services will be in place when the impacts of the development occur; or

23.2.2.1.3. The necessary facilities are under construction at the time a permit is issued; or

23.2.2.1.4. The necessary facilities and services are guaranteed in an enforceable development agreement that includes the provisions of Rules 9J-5.005(2)(a)1.-3. of this Chapter. An enforceable development agreements may include, but is not limited to, development agreements pursuant to Section 163.3220, F.S., or an agreement of development order issued pursuant to Chapter 380, F.S. The agreement must guarantee that the necessary facilities and services will be in place when the impacts of the development occur.

23.2.2.2. For parks and recreation, the City may satisfy the concurrency requirement by complying with the standards in Rules 9J-5.0055(2)(a)1.-4. of this Chapter or by including in the comprehensive plan provisions that ensure that the following standards will be met:

23.2.2.2.1. At the time the development permit is issued, the necessary facilities and services are the subject of the binding executed contract which provides for the commencement of the actual construction of the required facilities or the provision of services within one year of the issuance of the development permit; or

23.2.2.2. The necessary facilities and services are guaranteed in an enforceable development agreement which requires the commencement of the actual construction of the facilities or the provision of services within one year of the issuance of the applicable development permit. An enforceable development agreement may include, but is not limited to development agreements pursuant to Section 163.3220, F.S., or an agreement or development order issued pursuant to Chapter 380, F.S.

23.2.2.3. For roads designated in the adopted plan, the City may satisfy the concurrency requirement by complying with the standards in Rules 9J-5.0055(2)(a)1.-4 and (2)(b)1. and 2. of this Chapter. In addition, in areas in which the City has committed to provide the necessary public facilities and services in accordance with its five-year schedule of capital improvements, the City may satisfy the concurrency requirements for roads by the adoption and implementation of a concurrency requirements for roads by the adoption and implementation of a concurrency management system based upon an adequate capital improvements program and schedule and adequate implementing regulations which, at a minimum, include the following provision:

23.2.2.3.1. A capital improvements element and a five-year schedule of capital improvements which, in addition to meeting all of the other statutory and rule requirements, must be financially feasible. The capital improvements element and schedule of capital improvements may recognize and include transportation projects included in the first three years of the applicable, adopted Florida Department of Transportation five-year work program.

23.2.2.3.2. A five-year schedule of capital improvements which must include both necessary facilities to maintain the adopted levels of service standards to serve the new development proposed to be permitted and the necessary facilities required to eliminate those portions of existing deficiencies which are a priority to be eliminated during the five-year period under the City's schedule of capital improvements pursuant to Rule 9J-5.016(4)(a)1. of this Chapter.

23.2.2.3.3. A realistic, financially feasible funding system based on currently available revenue sources which must be adequate to fund the public facilities required to serve the development authorized by the development order and development permit and which public facilities are included in the five-year schedule of capital improvements.

- 23.2.2.3.4. A five-year schedule of capital improvements which must include the estimated date of commencement of actual construction and the estimated date of project completion.
- 23.2.2.3.5. A five-year schedule of capital improvements which must demonstrate that the actual construction of the road facilities and the provision of services are scheduled to commence in or before the third year of the five-year schedule of capital improvements.
- 23.2.2.3.6. A provision that a plan amendment would be required to eliminate, defer or delay construction of any road facility of service which is needed to maintain the adopted level of service standard and which is listed in the five-year schedule of improvements.
- 23.2.2.3.7. A requirement the City must adopt development regulations which, in conjunction with the capital improvements element, ensure that development orders and permits are issued in a manner that will assure that the necessary public facilities and services will be available to accommodate the impact of that development.
- 23.2.2.3.8. A provision that a monitoring system shall be adopted which enables the City to determine whether it is adhering to the adopted level of service standards and its schedule of capital improvements and that the City has a demonstrated capability of monitoring the availability of public facilities and services.
- 23.2.2.3.9. A clear designation within the adopted comprehensive plan of those area within which facilities and services will be provided by the City with public funds in accordance with the five-year capital improvement schedule.
- 23.2.2.4. In determining the availability of services or facilities, a developer may propose and the City may approve developments in stages or phases so that facilities and services needed for each phase will be available in accordance with the standards required by Rules 9J-5.0055(2)(a), (2)(b) and (2)(c) of this Chapter.
- 23.2.2.5. For the requirements of Rules 9J-5.0055(2)(a), (2)(b) and (2)(c) of this Chapter, the City must develop guidelines for interpreting and applying level of service standards to applications for development orders and permits and determining when the test for concurrency must be met. The latest point in the application process for the determination of concurrency is prior to the approval of an application for a development order or permit which contains a specific plan for development, including the densities and intensities of development.

ARTICLE 3. DEFINITIONS.

Sec. 23.3.1. TERMS.

The definitions of words and terms in the Concurrency Management System shall be the same as those which are set forth in Chapter 163, F.S. and Rule 9J-5, F.A.C., unless a word or term is defined differently in this Chapter.

23.3.1.1. ADEQUATE PUBLIC FACILITIES shall mean public facilities available to serve a development in a manner to meet the levels of service set forth in the Capital Improvements Element and this Chapter.

23.3.1.2. CAPITAL IMPROVEMENTS ELEMENT OR CIE shall mean the Capital Improvements Element of the City.

23.3.1.3. CERTIFICATE OF CONCURRENCY shall mean a certificate which constitutes proof that public facilities and services are or will be available, consistent with the adopted LOS set forth in the CIE and this Chapter and shall specify the public facilities and services which are to be constructed, timing of and responsibility for construction. Certification of Concurrency shall cause the reservation of capacity in the public facilities and services which are or will be available, until the Certification of Concurrency is utilized, amended or expires.

23.3.2.4. COMPREHENSIVE PLAN shall mean the Comprehensive Plan of the City, including the various Elements, as adopted and amended.

23.3.1.5. CONCURRENCY shall mean that the necessary public facilities and services to maintain the adopted LOS standards are available when the impacts of development occur as set forth in the CIE and this Chapter.

23.3.1.6. DEVELOPMENT AGREEMENT shall mean an agreement entered into between the City and a developer, corporation or other legal entity in connection with the approval of a development order pursuant to the requirements or Chapter 163.3220-163.3243, F.S., or an agreement on a development order issued pursuant to Chapter 380, F.S.

23.3.1.7. DEVELOPMENT PERMIT shall mean any development order issued in conjunction with a building permit, zoning permit, subdivision approval (including preliminary and final approvals), rezoning, certification, special exception, variance, or any other official action of a local government having the effect of permitting the development of land.

23.3.1.8. PUBLIC FACILITIES AND SERVICE shall mean capital facilities for water, sewer, drainage, solid waste, parks and recreation, and roads, for which level of service standards have been established in the Comprehensive Plan.

23.3.1.9. RESERVED CAPACITY shall mean the setting aside of an agreed upon quantity of a public facility or service to be used for a specific project having been assigned a development order.

ARTICLE 4. APPLICABILITY.

Sec. 23.4.1. GENERAL.

The Concurrency Management System shall become effective March 1, 1991. Any application for a development order that is pending or submitted after March 1, 1991 shall be subject to the Concurrency Management System. A development order refers to any building permit, zoning approval, subdivision approval (including either preliminary or final plat approval), site plan approval, impact statement approval, special exception, variance or land use amendment. Once a development order for a particular development expires, so does concurrency certification.

Sec. 23.4.2. EXTRATERRITORIAL SERVICES.

Adopted water and sewer levels of service shall be maintained in the unincorporated areas of the County where these facilities are provided by the City if a determination of concurrency of similar action is either required or requested from the County. The City may enter into an interlocal agreement with the County with respect to the administration or enforcement of concurrency requirements for potable water and/or sewer facilities, in accordance with Florida law.

Sec. 23.4.3. ANNEXATION.

If land is annexed into the City and, prior to annexation, was subject to development orders approved by the County, then the last development order issued by the County shall continue to comply with the County concurrency requirements and any subsequent development orders issued by the City. However, the developer, property owner or their agent(s) may request at the time of annexation that the property be subject to the provisions of the requirements contained in the City Concurrency Management System. For any land subject to this paragraph, any development orders which are issued by the City after five years of the date of annexation shall be subject to the provisions of the City Concurrency Management System.

Sec. 23.4.4. EXEMPTIONS.

Development permits for construction of a single family dwelling unit on an individual lot or parcel in solitary ownership and additions to or the erection of structures in which the addition or erection does not exceed 1,000 square feet and are utilized for non-residential purposes are deemed to be exempt from the concurrency rule. An Exemption Determination shall be issued to any land owner whose property is classified as being exempt from the concurrency provisions of this Chapter. However, the City shall maintain capacity demand records for all such construction and combine such data with that required for monthly and annual updates.

Sec. 23.4.5. TRANSFERABILITY.

An Exemption Determination, Certificate of Concurrency or reserved capacity may be transferred from one property owner to another, but not from one parcel of land to another.

ARTICLE 5. EFFECT.

Receipt of a Certification of Concurrency shall constitute proof that public facilities are or will be available, consistent with adopted levels of service and conditions set forth in this Chapter, and shall specify the public facilities and services which are to be constructed, timing of construction and responsibility for construction. Certification of Concurrency shall reserve capacity in the public facilities which are available, until the Certificate of Concurrency is fulfilled, amended or expires.

ARTICLE 6. AMENDMENTS OF CERTIFICATION.

An amendment to a Certificate of Concurrency shall be required in order to amend any development order for which such certification has been made, if the amendment would increase or decrease the demand for any public facility or service. The amendment of the Certification shall require evaluation and reservation of capacity only for any additional demand for public facilities and services which would be created by the amendment to the development order. Furthermore, the amendment to the Certification shall be approved if the amendment to the development order is exempt from concurrency requirements in accordance with the provisions of this Chapter.

ARTICLE 7. AVAILABILITY OF PUBLIC FACILITIES.

Except as provided otherwise, no development order which is submitted after the effective date shall be approved unless public facilities are or will be available to serve a proposed development, such that the adopted levels of service are maintained, concurrent with the impacts of the proposed development. For public facilities and services to be determined to be available as such, the following conditions shall be met, given the proposed timing and phasing of the proposed development:

Sec. 23.7.1. INFRASTRUCTURE.

For potable water, sewer, solid waste, and drainage, which are required improvements according to Chapter 13 of the LDR:

23.7.1.1. The necessary facilities and services are in place at time a development permit is issued; or

23.7.1.2. A development permit is issued subject to the condition that the necessary facilities and services will be in place when the impacts of the development occur; or

23.7.1.3. The necessary facilities are under construction at the time a permit is issued; or

23.7.1.4. The necessary facilities and services are guaranteed in an enforceable development agreement that includes the provisions of Sec. 23.7.1.-3. An enforceable development agreement may include, but is not limited to, development agreements pursuant to Section 163.3220, F.S., or an agreement or development order issued pursuant to Chapter 380, F.S. The agreement shall guarantee that the necessary facilities and services will be in place when the impacts of the development occur.

Sec. 23.7.2. RECREATION.

For parks and recreation, concurrency requirement may be satisfied by complying with the standards set forth in Paragraphs 23.7.1.1.-4. immediately above, or by complying with the following standards:

23.7.2.1. At the time the development permit is issued, the necessary public facilities and services are the subject of a binding executed contract which provides for the commencement of the actual construction of the required public facilities or the provision of services within one year of the issuance of the development permit; or

23.7.2.2. The necessary public facilities and services and guaranteed in an enforceable development agreement which requires the commencement of

the actual construction of the public facilities or the provision of services within one year of the issuance of the applicable development permit. An enforceable development agreement may include, but is not limited to, development agreement pursuant to Section 163.3220, F.S., or an agreement or development order issued pursuant to Chapter 380, F.S.

Sec. 23.7.3. STREETS.

For roads designated in the adopted Comprehensive Plan, the City may satisfy the concurrency requirement by complying with the standards set forth in Sec. 23.7.1., 23.7.1.1.-4.

ARTICLE 8. STANDARDS.

Sec. 23.8.1. LEVEL OF SERVICE.

23.8.1.1. The Capital Improvements Element (CIE) of the Comprehensive Plan serves as the baseline standard for the Concurrency Management System. The CIE establishes level of service standards for each public facility or service and proposes a schedule for funding applicable improvements to these facilities. Once the Comprehensive Plan is adopted, the City shall maintain the level of service standards established in the Capital Improvements Element and related Elements. The following level of service standards have been adopted by the City:

<u>ELEMENT/FACILITY</u>	<u>STANDARD</u>
(1) Potable Water.	Average water consumption rate: 170 gallons per capita per day
(2) Sanitary Sewer.	Average sewage generation rate: 110 gallons per capita per day
(3) Solid Waste.	Average solid waste generation rate: 6.2 lbs. per capita per day

Collection capacity: 1 truck
per 847 residents

- (4) **Drainage.** Design storm:
25 year frequency, 24 hour duration, SWFWMD
Permit Manual, March 1988. Distribution: SCS
Type 2, Florida Modified. Treatment: Per
SWFWMD and FDOT design criteria.

(5) **Traffic Circulation ***

Arterial	LOS D @ peak hour
Urban Collector-County	LOS D @ peak hour
Urban Collector-City	LOS D @ peak hour
Local Streets	LOS D @ peak hour

*See Traffic Circulation Map for specific street
designations.

(6) **Recreation.**

- a. Neighborhood Park

TABLE a

Park Facility	Location	Service Area	Area per 1,000 Population	Population Served	Park Adjoining School	Separate Park	Facilities
Neighborhood Park	Neighborhood area, adjacent to elementary school when feasible	1/4 to ½ mile radius	2 Acres	up to 5,000	Minimum of 2 acres	Minimum of 3 acres	Play apparatus areas, recreation building, sports fields, paved multi-purpose courts, senior citizens area, picnic area, open or free play area, landscaping
Community Park	Designed to serve residents of a group of neighborhoods adjacent to Jr. or Sr. high schools when feasible	½ to 3 mile radius	2 Acres	up to 25,000	Minimum of 5 acres	Minimum of 15 acres	All the facilities found in a neighborhood park plus facilities to service the entire family. Pools, softball/baseball fields, tennis courts, play areas, picnic area, passive and active recreation areas, multi-purpose courts, and recreation building

Sources: Outdoor Recreation In Florida, 1989. State of Florida Department of Natural Resources, Division of Recreation and Parks, Tallahassee, Florida October, 1989.
Criteria For Leisure Facilities. Florida Recreation and Park Association and Florida Planning and Zoning Association, January 1975.

TABLE b Space Standards When Unit Facility is Provided

Facility	Area in Acres	
	Park Adjoining School	Separate Park
Play apparatus area - preschool	0.25	0.25
Play apparatus area - older children	0.25	0.25
Paved multi-purpose courts	0.50	0.50
Recreation center building	*	0.25
Sports fields	*	5.00
Senior citizens' area	0.50	0.50
Quiet areas & outdoor classroom (City beach park)	1.00	1.00
Open or "free play" area	0.50	0.50
Family picnic area	1.00	1.00
Total	4.00	9.25

*The improvements required by these standards shall be implemented when the population of the City reaches the absolute numerical threshold established for each identified recreation facility.

TABLE c Use Standards for User-Oriented Facilities

Special Facility	Size Range	Median Population Served For Each Facility*	Service Area
Lighted Tennis Courts	2.0 Acres	2,000	1 Mile Radius
Lighted Basketball Court	0.6 Acres	5,000	1 Mile Radius
Baseball Diamonds (Regulation)	4.5 Acres	5,000	1 Mile Radius
Softball (and/or Youth Diamonds)	4.5 Acres	5,000	1 Mile Radius
Field Sports Area (Soccer, Field Hockey, Rugby, Open Space)	2-3 Acres	6,000	1 Mile Radius
Shuffleboard (Battery of 6)	1.0 Acre	3,600	1 Mile Radius
Three Walled Court Area (Handball, Racquetball)	0.5 Acre	10,000	1 Mile Radius

Source: Outdoor Recreation In Florida, 1989. State of Florida, Department of Natural Resources, Division of Recreation and Parks, Tallahassee, Florida, October, 1989
Auburndale Recreation and Open Space Element, 1977.

*The improvements required by these standards shall be implemented when the population of the City reaches the absolute numerical threshold established for each identified recreation facility.

TABLE d Standards for Resource-Based Outdoor Recreation Activities

Activity	Resource	Facility	Standard	Minimum Space Requirement
Swimming	Freshwater Beach	Beach	0.2 linear foot of beach per user per day	3 acres of water area
Fishing	Freshwater Lake	—	One within 50 miles of 20,000 population	Minimum 1 acre
Boating	Freshwater Lake	Boat Ramp	1 ramp for 5,000 population	40 acres of water per boat
Water Skiing	Freshwater Lake	—	40 acres of water per boat	
Picnicking	Picnic Areas	Picnic Tables and site		4 to 8 tables per acre
Bicycling	Bicycle Trails	Bicycle Trails	0.78 mile of trail for users	Minimum 5 feet wide

ARTICLE 9. CITY RESOURCES AND MONITORING SYSTEM.

Sec. 23.9.1. CITY RESOURCES.

All departments and agencies that provide and maintain public facilities or services in the City shall be requested by the Administrative Official (or designee) to provide data and information that will be necessary to make concurrency determinations. Primary service providers are considered departments within the City that have a direct responsibility for maintaining a public facility or provide a public service. These departments will provide specific information on existing usage, system capacity, generation factors, and the status of planned facility expansions. The data and information provided by these departments will be the basis for determining how much capacity is available for new development while maintaining the adopted level of service standards. Primary service providers are:

PRIMARY SERVICE PROVIDER	PUBLIC FACILITY OR SERVICE
City Utilities Department	potable water and sewer
City Public Works Department	drainage, solid waste and traffic circulation
City Parks and Recreation Department	recreation and open space
City Planning and Engineering Department	traffic circulation

Secondary service providers are those entities outside the City that have a role in providing or maintaining a public facility or service in the City. These entities shall be requested to provide the City with evaluations on how their operating conditions and future plans impact the City adopted level of service standards. The information gathered from these entities will be long range in nature and less specific than information gathered from the primary service providers. Secondary service providers include:

SECONDARY SERVICE PROVIDER	FACILITY OR SERVICE
Polk County Health Department	potable water, sanitary sewer
Southwest Florida Water Management District	drainage

Polk County

Solid waste

Florida Department of
Transportation

traffic circulation

Polk County School Board recreation and open space

Sec. 23.9.2. MONITORING SYSTEM.

The City shall maintain written or computerized records of all public facility and service capacities or volumes which are committed for developments as a result of development orders issued by the City. This process will require coordination between the service providers and the Administrative Official in order to establish and maintain an accurate accounting system that systematically tracks development approvals. At a minimum, the monitoring process must ensure that each service provider accounts for the impact and demand generated by all development orders issued by the City.

Accountability shall be established by reserving capacity from the total available capacity for all approved development orders. Once capacity is reserved for a specific development, it cannot be allocated to another development. Capacity reservations shall be renewed no later than June 30 on a yearly basis in order for facility improvements or services to be entered into or accounted for in the annual budgetary process. Upon the expiration of a development order with concurrency standing which is not constructed or deemed by the City to having been abandoned by an applicant, the capacity allocated to that proposed development shall be deleted. Deleted capacity shall then be available for use, reservation, or allocation to other proposed developments on a first come, first serve basis. A priority "waiting list" shall be established for the purpose of allocating deleted capacity. Reserved capacity may be transferable from one property owner to another, but not from one lot or parcel of land to another. When determining how much capacity is available for new proposed developments, the City shall take into account all capacity that is reserved for approved development orders.

Development orders that remain valid through March 1, 1991 (as determined by the City) shall remain exempt from meeting concurrency requirements, but the development impacts will be added cumulatively to existing capacities and volumes for each affected public facility or service in order to establish total committed and available capacity. Development orders issued by governmental jurisdictions outside the City shall also be accounted for if the development order is issued within the service area of a City service provider.

Sec. 23.9.3. ANNUAL SYSTEM ADJUSTMENT.

At a minimum, the database component shall be updated as a part of the City's annual schedule of capital improvements update. Necessary adjustments include: updating information generated by service providers; making changes (deletions or reservations) to available facility capacities; adding or deleting capital projects; using new or enhanced revenue sources; moving projects ahead of schedule; and delaying projects due to revenue shortfalls. The Administrative Official must ensure that all relevant information is updated on a regular basis by conducting a monthly inventory of development orders issued by the City and requiring primary service providers to maintain current records.

ARTICLE 10. ADMINISTRATION.

Sec. 23.10.1. ADMINISTRATION.

Once a specific development application is accepted as complete, information on: (a) type of development proposed, (b) number of new or additional dwelling units or non-residential units, (c) densities or intensities of uses, (d) types of uses or units and (e) specific boundaries of the proposed development must be documented and verified. This information shall be collected from the original development application submitted by the applicant. The Administrative Official will then calculate the projected public facility and service demands of the proposed development and identify the public facilities and/or services that will be affected.

If the demands generated by the proposed development, when deducted from the available capacity, fall below the minimum established level of service standard thresholds, the proposal will be found in compliance and capacity will be reserved for needed facilities or services. If a proposed development causes established thresholds to exceed the adopted LOS standards, the Administrative Official shall prepare an impact statement and forward copies to all affected primary service providers. Primary service providers will review impact statements and determine how much capacity will be available to service the proposed development.

Sec. 23.10.2. CITY STAFF REVIEW MEETINGS.

Each service provider that received an impact statement shall determine if and when adequate public facilities and/or services will be available to serve the proposed development and present written findings during City Staff Review Meetings. If a service provider determines that adequate public facilities and/or services exist to serve the proposed development, the Administrative Official shall render a finding of concurrence and capacity will be reserved for that particular facility and/or service for the proposed development. If a service provider determines that public facilities and/or services will not be available as a result of lowering the level of service

standards below thresholds, the Administrative Official shall render a finding of nonconcurrency.

Within 15 days of the City Staff meeting and receipt of service provider reports, the Administrative Official shall review the reports and application to determine whether the application complies with the provisions of this Chapter. If the application complies with the provisions of this Chapter, the Administrative Official shall issue a Certificate of Concurrency and capacity shall be reserved. The Certificate of Concurrency shall specify the public facilities which are to be constructed, timing of construction and responsibility for construction. The reservation shall be valid for a period of one year after issuance of a development order. An applicant may renew the reservation on an annual basis, with the renewal period to be no later than June 30 of each year. All capacity reservations granted between January and June of each year shall not be required to renew the reservation until the following June.

In case of a finding of noncurrency the applicant shall be so notified, and then may pursue the mitigation process.

Sec. 23.10.3. MITIGATION.

If levels of service standards fall below thresholds due to the demands generated by the proposed development, the applicant will be provided the following mitigation options:

23.10.3.1. Phasing the development in accordance with planned facility improvements,

23.10.3.2. Scaling back or reducing the development size in accordance with available public facilities and/or services, or

23.10.3.3. Executing a enforceable development which guarantees the construction of all necessary public facilities and/or services at the time the impacts of development occur.

If a mitigation solution is agreed upon by the city and applicant, the Administrative Official shall render a finding of compliance and capacity will be reserved. If an applicant refuses to mitigate in a manner acceptable to the City, the Administrative Official will render a finding of non-compliance and a final development order shall be withheld. An applicant may appeal the City's finding and determination to the City Commission.

Sec. 23.10.4. PAYMENT IN LIEU OF DEDICATION.

The petitioner may be permitted, after review and recommendation by the City Staff, to dedicate or make payment-in-lieu of dedication, as part of the development order,

for the purpose of securing easements for public utility systems, setbacks and right-of-ways for traffic circulation systems, and provisions for open space and for meeting applicable level of service standards.

Sec. 23.10.5. REPLACEMENT.

Any proposed development that will utilize components of the existing infrastructure system that has been determined to need replacement within 5 years of the date of issuance of the development order to maintain the applicable adopted level of service standards, shall be required to replace or pay the proportionate costs for replacement.

Sec. 23.10.6. APPEALS.

The decision of the Administrative Official is final but may be appealed in writing to the City Commission by either the applicant or the City Staff by filing notice of the appeal within 30 calendar days of the rendering of the Administrative Official decision. The City Commission may affirm, modify, or uphold the decision of the Administrative Official or remand the matter to the Administrative Official for further review. The decision of the City Commission shall be based upon the concurrency requirement and accepted engineering and planning principles and shall be rendered within 45 days after the close of the City Commission hearing on the appeal.