

**CITY OF CORAL GABLES, FLORIDA**

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE PROVIDING FOR TEXT AMENDMENTS TO THE ZONING CODE, ARTICLE 3, DIVISION 13, ENTITLED “CONCURRENCY REVIEW,” PROVIDING FOR UPDATES TO CONCURRENCY REVIEW PROVISIONS AND PROCEDURES, INCLUDING THE ADDITION OF PUBLIC SCHOOL CONCURRENCY REVIEW PROCEDURES NECESSARY TO MEET STATE OF FLORIDA MANDATED PUBLIC SCHOOL CONCURRENCY REQUIREMENTS; PROVIDING FOR SEVERABILITY, REPEALER, CODIFICATION, AND AN EFFECTIVE DATE.

**WHEREAS**, in 2005 the Florida Legislature passed a sweeping growth management bill, requiring, among other things, that local governments ensure that adequate public school capacity is available to meet the impacts of new residential development, a concept known as public school concurrency; and,

**WHEREAS**, the legislation requires that all local governments amend their land development regulations and concurrency management systems as necessary to meet the new public school concurrency requirements; and,

**WHEREAS**, since passage of public school concurrency legislation in 2005, the City of Coral Gables has been participating in a countywide intergovernmental effort to comply with and implement the new requirements; and,

**WHEREAS**, the Miami-Dade County School Board presented an overview of school concurrency requirements and proposed regulations at the Planning and Zoning Board meeting of October 10, 2007, and at the City Commission meeting of November 13, 2007; and,

**WHEREAS**, on October 16, 2007, the City began to provide a notice of these requirements to all prospective applicants for residential development in the City; and,

**WHEREAS**, these regulations are related to the various public school concurrency items (i.e., amendments to the Comprehensive Land Use Plan and Interlocal Agreement) approved on First Reading by the City Commission on December 11, 2007; and,

**WHEREAS**, the Planning Department and Building and Zoning Department have taken this opportunity to provide necessary updates to the existing concurrency management regulations to reflect recent changes and requirements; and,

**WHEREAS**, while the State's requirements for public school concurrency become effective January 1, 2008, the City's regulations will not be in place until March/April 2008, therefore, to allow projects to proceed forward in the interim, transitional rules have been included herein; and,

**WHEREAS**, after notice of a public hearing being duly published, a public hearing was held before the Planning and Zoning Board of the City of Coral Gables on January 9, 2008 at which hearing all interested parties were afforded the opportunity to be heard; and,

**WHEREAS**, at the January 9, 2008 Planning and Zoning Board meeting, the Planning and Zoning Board recommended approval of the proposed Zoning Code text amendments provided herein (vote: 5-0); and,

**WHEREAS**, after notice of a public hearing being duly published, the City Commission on January 22, 2008 approved on First Reading the proposed Zoning Code text amendments provided herein (vote: \_\_\_\_\_); and,

**WHEREAS**, after notice of a public hearing being duly published, the City Commission on \_\_\_\_\_ approved on Second Reading the proposed Zoning Code text amendments provided herein (vote: \_\_\_\_\_).

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSION OF THE CITY OF CORAL GABLES THAT:

**SECTION 1.** The foregoing 'WHEREAS' clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

**SECTION 2.** Article 3, Division 13 of the City of Coral Gables Zoning Code, entitled "Concurrency Review," is hereby amended as provided in Attachment A (clean version) and Attachment B (~~strikethrough/underline~~ version).

**SECTION 3.** Projects securing preliminary Board of Architects approval prior to January 1, 2008 shall be vested with respect to the applicability of these provisions.

**SECTION 4.** It is the intention of the City Commission that each provision hereof be considered severable, and that the invalidity of any provision of this Ordinance shall not affect the validity of any other portion of this Ordinance, the Coral Gables Comprehensive Land Use Plan, or the Coral Gables Zoning Code.

**SECTION 5.** All rights, actions, proceedings and Contracts of the City, including the City Commissioners, the City Manager, or any of its departments, boards or officers undertaken pursuant to the existing code provisions, shall be enforced, continued, or completed, in all respects, as though begun or executed hereunder.

**SECTION 6.** All ordinance or parts of ordinances that are inconsistent or in conflict with the provisions of this Ordinance are repealed.

**SECTION 7.** If any section, part of session, paragraph, clause, phrase or word of this Ordinance is declared invalid, the remaining provisions of this Ordinance shall not be affected.

**SECTION 8.** It is the intention of the City Commission that the provisions of this Ordinance shall become and be made a part of Ordinance No. 2007-01 as amended and known as the "Zoning Code" of the City of Coral Gables, Florida, which provisions may be renumbered or re-lettered and the word ordinance be changed to "section", "article", or other appropriate word to accomplish such intention.

**SECTION 9.** This ordinance shall become effective \_\_\_\_\_, 2008.

PASSED AND ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, A.D., 2008.

DONALD D. SLESNICK II  
MAYOR

ATTEST:

WALTER J. FOEMAN  
CITY CLERK

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:

ELIZABETH M. HERNANDEZ  
CITY ATTORNEY

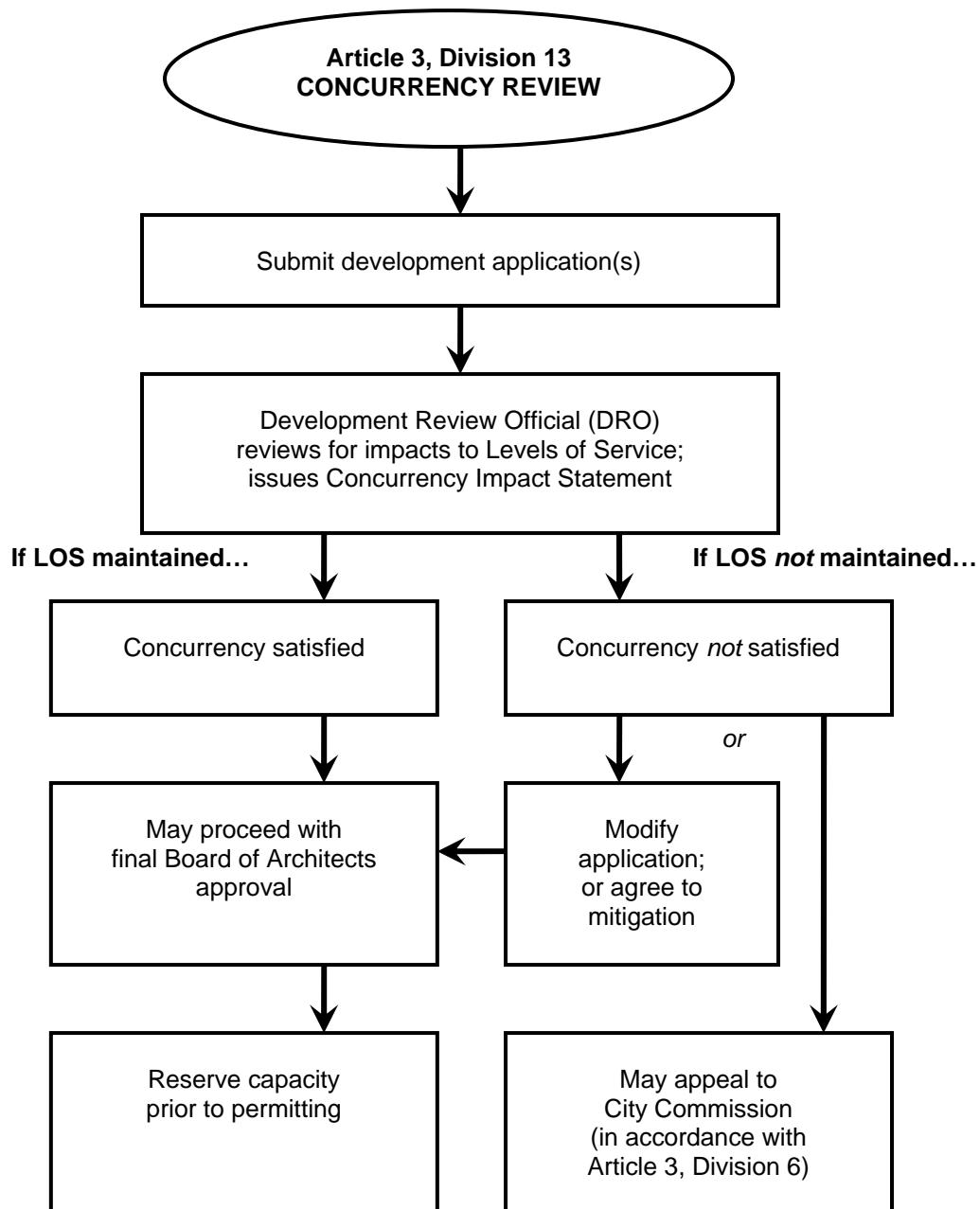
**Zoning Code Amendment**  
**Article 3, Division 13 - “Concurrency Review”**  
***Clean version***

**Article 3, Division 13.      Concurrency Review**

**Section 3-1301. Purpose and applicability.**

It is the purpose of this Division to provide a process for ensuring that the public facilities and services needed to support development are available concurrent with the impacts of such development.

**Section 3-1302. General procedures for concurrency review.**



**Section 3-1303. Concurrency review required.**

- A. Pursuant to Florida Statutes and the City's comprehensive plan, concurrency review is required for all applications for development approval in order to identify and address the impacts of new development on the levels of service for various public facilities and services, except as exempted under the provisions of Sections 3-1303(B) and (C) below.
- B. Concurrency review is not required for the following:
  - 1. Applications for single-family residential development platted prior to December 8, 1992.
  - 2. Applications for additions, renovations, or reconstruction of residential dwellings which do not increase the number of dwelling units placed on the premises or approved for the property.
  - 3. Additions, renovations, or reconstruction of uses accessory to residential dwellings.
  - 4. Sign permits.
  - 5. Applications which will not result in a development order.
  - 6. Applications requesting modifications of previously approved development orders where it is determined that the impacts on the prescribed levels of service imposed by the requested modifications will be no greater than the impacts posed by the previously approved development order or the previously existing use.
  - 7. Vested projects.
- C. Certificates of use and occupancy may be issued without the requirement for further concurrency review where the applicant for the certificate of use and occupancy holds a valid, unexpired building permit for the identical use of the subject structure or site or pertinent portion thereof; provided said building permit is not subject to a development agreement or other conditions requiring the applicant, successors, or assigns to provide or contract for the construction of necessary public services and facilities or other appropriate service impact mitigation measures. Where the building permit is subject to such development agreement or appropriate conditions, no certificate of use and occupancy shall be issued until the Development Review Official determines that all agreements and conditions have been satisfied.

**Section 3-1304. Public School Concurrency review required.**

- A. In addition to the provisions in Section 3-1303 above, pursuant to Florida Statutes and the City's comprehensive plan public school concurrency review is required for all applications for development approval in order to identify and address the impacts of new residential development on the levels of service for public school facilities, except as exempted under the provisions of Section 3-1304(B) below,
- B. Concurrency review is not required for the following:
  - 1. Applications for one (1) unit single-family homes.
  - 2. Assisted Living Facilities, as defined in Article 8.
  - 3. Non-residential development.
  - 4. Any Development of Regional Impact (DRI) for which a development order was issued, pursuant to Chapter 380, F.S., prior to July 1, 2005.
  - 5. Applications for which preliminary Board of Architects approval was secured prior to January 1, 2008.

**Section 3-1305. Application.**

All applications for concurrency review shall accompany all applications for development approval, unless otherwise exempt under the provisions of this Division. Such applications shall be made in writing upon an application form approved by the City and shall be accompanied by applicable fees.

**Section 3-1306. City review and determination.**

- A. The Development Review Official shall review each application for a development order and shall determine whether the request would have no impact or would have impacts on levels of service that fall below thresholds for public facilities and services prescribed in the Concurrency Manual.
- B. In the event that the Development Review Official determines that there is no impact, a statement of no impact shall be issued to the applicant and the Board of Architects or other decision maker responsible for the issuance of the development order. Such statement of no impact shall be valid for a period not to exceed one (1) year from issuance.
- C. Concurrency Impact Statement.
  - 1. Prior to final Board of Architects review and approval, the applicant, its successors, or assigns shall secure a written Concurrency Impact Statement from the Development Review Official, who shall determine the impacts to levels of service for public facilities and services, pursuant to concurrency review criteria contained in Section 3-1307.
  - 2. If the concurrency impact statement indicates that the proposed development satisfies the adopted levels of service, the applicant shall secure the statement, furnish it to the Board of

Architects and other decision makers, and reserve capacity for all applicable public facilities and services within the timeframes prescribed in the City's Concurrency Manual. An applicant's failure to successfully reserve capacity for all applicable public facilities and services within the timeframes prescribed in the City's Concurrency Manual will render a final Board of Architects approval and/or final development order null and void.

3. If the concurrency impact statement indicates that the approval cannot be issued because the proposed development would result in a reduction in adopted levels of service, the applicant may modify the application, or come to an acceptable mitigation agreement with the City and/or other appropriate entity responsible for the public service or facility in question, subject to the City's final review and approval. Such modifications, agreements or conditions shall ensure that the necessary public facilities and services shall be available concurrent with the impacts of development. The concurrency impact statement shall be secured by the applicant and furnished to the Board of Architects and/or other decision-makers responsible for the issuance of the development order, and shall specify the modifications, agreements or conditions which shall be satisfied prior to the issuance a final Board of Architects approval and/or final development order.

D. Reservation of capacity.

1. Upon payment of a fee prescribed in the City of Coral Gables Concurrency Manual, or other fee schedule, as amended, an applicant, its successors, or assigns may reserve capacity for up to twelve (12) months from the date of capacity reservation for the project. An applicant's failure to successfully reserve capacity for all applicable public facilities and services within the timeframes prescribed in the City's Concurrency Manual will render a final Board of Architects approval and/or final development order null and void. An applicant, its successors, or assigns may secure an extension of capacity reservations for an additional twelve (12) months, subject to the terms prescribed in the Concurrency Manual, and the payment of all applicable fees.
2. A Public School Concurrency Certificate issued by Miami-Dade County Public Schools to the applicant, its successors, or assigns, shall be valid for the following time periods, unless otherwise provided for in the Proportionate Share Mitigation Agreement:
  - a. Twelve (12) months from the issuance of a document signifying public school capacity reservation.
  - b. Twenty-four (24) months from the date of issuance of a final Board of Architects approval and/or final development order. However, with one hundred twenty (120) days advance notice, up to three (3) twelve (12) month extensions of the Public School Concurrency Certificate may be granted by Miami-Dade County Public Schools. In no event shall a Public School Concurrency Certificate be valid for more than six (6) years.
  - c. Extensions will only be granted when Miami-Dade County Public Schools receives documentation that the applicant, its successors, or assigns are progressing in good faith through the City's review process. Once the City issues the final Board of Architects approval and/or final development order, the Public School Concurrency Certificate shall remain valid pursuant to the timeframes prescribed herein.
  - d. The applicant, its successors, or assigns shall be responsible for all coordination, monitoring, payments, and notification associated with the Public School Concurrency Certificate, and shall advise the City of any associated agreements with Miami-Dade County Public Schools.

### **Section 3-1307. Concurrency review criteria.**

- A. The public facilities and services needed to support development shall be deemed to be available concurrent with the impacts of development if the following criteria are satisfied:
  1. The necessary public facilities and services are in place at the time a final Board of Architects approval and/or final development order is issued; or
  2. A final Board of Architects approval and/or final development order is issued subject to the condition that the required public facilities and services will be in place when the impacts of the development occur; or
  3. The necessary public facilities are under construction at the time the final Board of Architects approval and/or final development order is issued and such construction is the subject of enforceable assurance that it shall be completed and serviceable without unreasonable delay; or
  4. The necessary public facilities and services are the subject of a binding executed contract for the construction of the facilities or the provision of services at the time the final Board of Architects approval and/or final development order is issued; or
  5. The necessary public facilities are funded and programmed for implementation in year one (1) of the City's adopted capital budget, or similarly adopted budget of other government agencies; or
  6. The necessary traffic circulation, mass transit, or public school facilities or services are programmed

for implementation in or before year three (3) of the city's adopted budget or similarly adopted budget of other governmental agencies including the county's capital budget, the School Board's Facilities Work Plan, or the state agency having operational responsibility for affected facilities; in all cases, such facilities must be committed for construction in or before year three (3); or

7. The necessary public facilities and services are guaranteed in a development agreement to be provided by the developer, pursuant to Section 163.3220, Florida Statutes, or Chapter 380, Florida Statutes; or
8. Timely provision of the necessary public facilities and services will be guaranteed by some other means or instrument providing substantially equivalent assurances, subject to City review and approval; and
9. In all instances where a decision to issue a building permit is based on the foregoing provision (5), (6) (7), or (8), all of the following conditions shall apply:
  - a. The necessary public facilities and services shall not be deferred or deleted from the adopted capital budget unless the dependent final development order expires or is rescinded prior to the issuance of a certificate of use and occupancy; and
  - b. Implementation of the necessary public facilities and services must proceed to completion with no unreasonable delay or interruption.

B. In determining the availability of public facilities and services, the applicant may propose and the City may approve development in stages or phases so that the public facilities and services needed for each stage or phase will be available in accordance with the criteria required by this chapter.

**Section 3-1308. Concurrency manual.**

The City shall promulgate and maintain a Concurrency Manual which shall contain the administrative procedures to be applied in the implementation of this Division, as determined by the Director of the responsible department.

**Section 3-1309. Appeals.**

An appeal from a negative concurrency determination may be taken to the City Commission by an aggrieved party in accordance with the provisions of Article 3, Division 6 of these regulations.

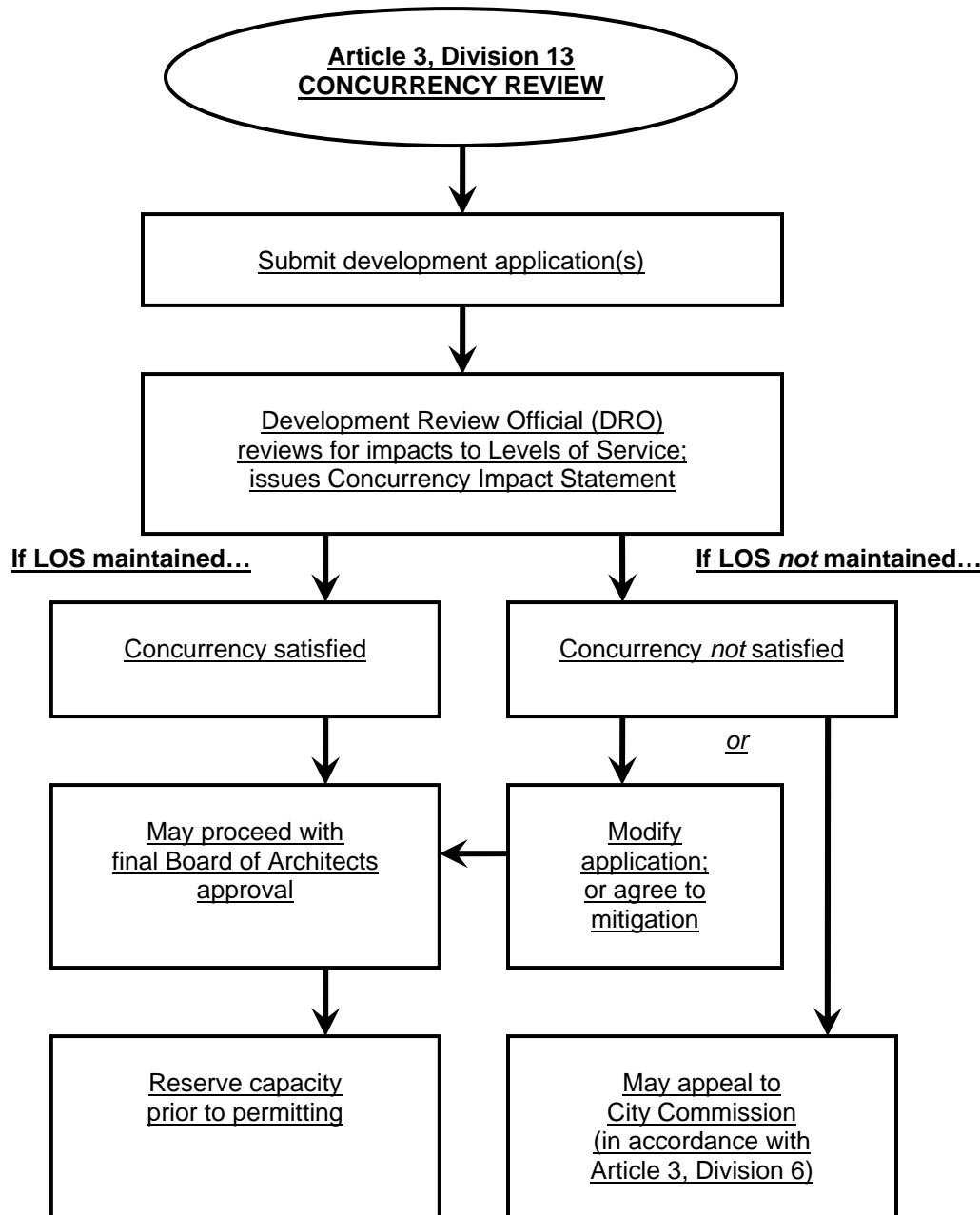
**Zoning Code Amendment**  
**Article 3, Division 13 - “Concurrency Review”**  
**Strikethrough and underline version**

**Article 3, Division 13.      Concurrency Review**

**Section 3-1301. Purpose and applicability.**

It is the purpose of this Division to provide a process for ensuring that the public facilities and services needed to support development are available concurrent with the impacts of such development.

**Section 3-1302. General procedures for concurrency review.**



**Section 3-13032. Concurrency review required.**

- C. Pursuant to Florida Statutes and the City's comprehensive plan, concurrency review is required for all applications for development approval in order to identify and address the impacts of new development on the levels of service for various public facilities and services, except as exempted. Unless exempted under the provisions of Sections 3-1303(B) and (C) below, all applications for development approval shall include an application for concurrency review.
- D. Concurrency review is not required for the following:
  - 1. Applications for single-family residential development platted prior to December 8, 1992.
  - 2. Applications for additions, renovations, or reconstruction of residential dwellings which do not increase the number of dwelling units placed on the premises or approved for the property.
  - 3. Additions, renovations, or reconstruction of uses accessory to residential dwellings.
  - 4. Sign permits.
  - 5. Applications which will not result in ~~a either an Intermediate Development or Final~~ development order.
  - 6. Applications requesting modifications of previously approved development orders where it is determined that the impacts on the prescribed levels of service imposed by the requested modifications will be no greater than the impacts posed by the previously approved development order or the previously existing use.
  - 7. Applications on properties where a Development of Regional Impact has been approved for which the development is proceeding in compliance with the conditions of the DRI approval.
  - 8. Applications where the particular type of Intermediate or Final Development order would not result in a reduction in the level of service for any of the services or facilities prescribed in the Concurrency Management Program.
  - 9. Applications for development approval within areas designated by the City where all services or facilities have sufficient surplus capacity to sustain projected development of specified types for one (1) to five (5) or more years as applicable to the service.
  - 8. 10. Vested projects.
- C. Certificates of use and occupancy may be issued without the requirement for further concurrency review where the applicant for the certificate of use and occupancy holds a valid, unexpired building permit for the identical use of the subject structure or site or pertinent portion thereof; provided said building permit is not subject to a development agreement of other conditions requiring the applicant, successors, or assigns to provide or contract for the construction of necessary public services and facilities or other appropriate service impact mitigation measures. Where the building permit is subject to such development agreement or appropriate conditions, no certificate of use and occupancy shall be issued until the Development Review Official determines that all agreements and conditions have been satisfied.

#### **Section 3-1304. Public School Concurrency review required.**

- C. In addition to the provisions in Section 3-1303 above, pursuant to Florida Statutes and the City's comprehensive plan public school concurrency review is required for all applications for development approval in order to identify and address the impacts of new residential development on the levels of service for public school facilities, except as exempted under the provisions of Section 3-1304(B) below.
- D. Concurrency review is not required for the following:
  - 6. Applications for one (1) unit single-family homes.
  - 7. Assisted Living Facilities, as defined in Article 8.
  - 8. Non-residential development.
  - 9. Any Development of Regional Impact (DRI) for which a development order was issued, pursuant to Chapter 380, F.S., prior to July 1, 2005.
  - 10. Applications for which preliminary Board of Architects approval was secured prior to January 1, 2008.

#### **Section 3-13053. Application.**

All applications for concurrency review shall accompany all applications for development approval, unless otherwise exempt under the provisions of this Division. Such applications shall be made in writing upon an application form approved by the City and shall be accompanied by applicable fees.

#### **Section 3-13064. City review and determination.**

- C. The appropriate Development Review Official shall review each application for a development order and shall determine whether the application:
  - 1. Is a request for approval of an initial, intermediate or final development order; or
  - 2. Would the request ~~would~~ have no impact or would have impacts on levels of service that fall below thresholds for public facilities and services prescribed in the ~~e~~Concurrency ~~m~~Manual.

D. In the event that the Development Review Official determines that there is no impact, a statement of no impact shall be issued to the applicant and the Board of Architects or other decision maker responsible for the issuance of the development order. Such statement of no impact shall be valid for a period not to exceed one (1) year from issuance.

C. Initial development orders.

1. A concurrency information statement shall be prepared prior to the issuance of any initial development order and provided to the applicant, Board or other decision maker responsible for the issuance of the initial development order.
2. The purpose of the concurrency information statement is to provide general information and guidance regarding the available capacity of public facilities and services. The concurrency information statement does not ensure that capacity will be available at the time of the issuance of an intermediate or final development order, nor does it obviate the need for concurrency review prior to the issuance of an intermediate or final development order.

C. D. Concurrency Impact Statement Intermediate development orders.

4. Each application for an intermediate development order shall be evaluated on the basis of the concurrency review criteria contained in Section 3-1305. Prior to final Board of Architects review and approval, the applicant, its successors, or assigns shall secure a written Concurrency Impact Statement from the Development Review Official, who shall determine the impacts to whether or not a proposed development would result in a reduction in levels of service for public facilities and services below adopted levels of service and shall issue a concurrency impact statement to the applicant, pursuant to concurrency review criteria contained in Section 3-1307.
5. If the concurrency impact statement indicates that the proposed development satisfies the would not result in a reduction in adopted levels of service, the applicant shall secure the statement, furnish it to the shall be furnished to the applicant, Board of Architects and other decision makers, and reserve responsible for the issuance of the intermediate development order. capacity for all applicable public facilities and services within the timeframes prescribed in the City's Concurrency Manual. An applicant's failure to successfully reserve capacity for all applicable public facilities and services within the timeframes prescribed in the City's Concurrency Manual will render a final Board of Architects approval and/or final development order null and void.
6. If the concurrency impact statement indicates that the approval requested intermediate development order cannot be issued because the proposed development would result in a reduction in adopted levels of service, the applicant may modify the application, or come to an acceptable mitigation agreement with the City and/or other appropriate entity responsible for the public service or facility in question, submit an enforceable development agreement or the intermediate development order may be issued subject to the City's final review and approval. appropriate conditions. Such modifications, agreements or conditions shall ensure that the necessary public facilities and services shall be available concurrent with the impacts of development. The concurrency impact statement shall be secured by the applicant and furnished to the Board of Architects and/or other decision-makers responsible for the issuance of the development order. The concurrency impact statement and shall specify the modifications, agreements or conditions which shall be satisfied prior to the issuance of an intermediate development order or a final Board of Architects approval and/or final development order or both. The concurrency impact statement shall be furnished to the applicant and to the Board and/or other decision maker responsible for the issuance of the intermediate development order.

DE. Reservation of capacity.

- a. Upon payment of a fee prescribed in the City of Coral Gables eConcurrency Manual, or other fee schedule, as amended, the holder of an affirmative intermediate development order an applicant, its successors, or assigns may reserve capacity for up to twelve (12) months from the date of capacity reservation for the approved project, by the City's issuance of a document signifying capacity reservation. This fee payment and capacity reservation is optional and is not required of recipients of affirmative intermediate development orders. An applicant's failure to successfully reserve capacity for all applicable public facilities and services within the timeframes prescribed in the City's Concurrency Manual will render a final Board of Architects approval and/or final development order null and void. An applicant, its successors, or assigns may secure an extension of capacity reservations for an additional twelve (12) months, subject to the terms prescribed in the Concurrency Manual, and the payment of all applicable fees. forfeits any right of reliance upon an affirmative intermediate development order to ensure service capacity availability and reservation. Such reservation shall ensure that the City does not permit other development which would result in a reduction in levels of service for public facilities and service for public facilities and services follow the adopted levels of service during the period of reservation.

2. A Public School Concurrency Certificate issued by Miami-Dade County Public Schools to the

applicant, its successors, or assigns, shall be valid for the following time periods, unless otherwise provided for in the Proportionate Share Mitigation Agreement:

- a. Twelve (12) months from the issuance of a document signifying public school capacity reservation.
- b. Twenty-four (24) months from the date of issuance of a final Board of Architects approval and/or final development order. However, with one hundred twenty (120) days advance notice, up to three (3) twelve (12) month extensions of the Public School Concurrency Certificate may be granted by Miami-Dade County Public Schools. In no event shall a Public School Concurrency Certificate be valid for more than six (6) years.
- c. Extensions will only be granted when Miami-Dade County Public Schools receives documentation that the applicant, its successors, or assigns are progressing in good faith through the City's review process. Once the City issues the final Board of Architects approval and/or final development order, the Public School Concurrency Certificate shall remain valid pursuant to the timeframes prescribed herein.
- d. The applicant, its successors, or assigns shall be responsible for all coordination, monitoring, payments, and notification associated with the Public School Concurrency Certificate, and shall advise the City of any associated agreements with Miami-Dade County Public Schools.

11. F. Final development orders.

- b. Applicants filing complete applications for issuance of a final development order within twelve (12) months from the date of issuance of an intermediate development order shall be exempt from the requirement of further concurrency review (but not exempt from the payment of any applicable administrative fee set forth in the concurrency manual), provided that (a) no significant changes have been made to the proposed development from the time of preliminary Board of Architects approval; the approved intermediate development order; (b) all modifications, agreements, or conditions of the concurrency impact statement, if applicable, have been satisfied; and (c) the City has reserved capacity for the development pursuant to subsection 3-1304(E). In the absence of these provisions, the applicant is not entitled to rely upon the preliminary Board of Architects approval an intermediate development order for concurrency compliance, and must follow prescribed procedures for the issuance of a concurrency compliance statement.
- c. With the exception of final development orders for which applications have been timely filed and capacities have been reserved pursuant to Sections 3-1304(E) and 3-1304(F)(1) above, or certificates of use and occupancy as described in Section 3-1304(F)(6) below, the Development Review Official shall evaluate each application for a final development order on the basis of the concurrency review criteria contained in Section 3-1305.
- d. The Development Review Official shall determine whether or not the proposed development would result in a reduction in levels of service for public facilities and services below adopted levels and shall issue a concurrency compliance statement to the applicant. If the concurrency compliance statement indicates that that issuance of the proposed final Development order would not result in a reduction in levels of service for public facilities and services below adopted levels of service, the concurrency compliance statement shall be furnished to the person, board or agency responsible for the issuance of the final development order and the final Development order may be issued.
- e. If the concurrency impact statement indicates that the requested final Development order cannot be issued because the proposed development would result in a reduction in adopted levels of service, the applicant may modify the application, submit an enforceable development agreement, or the final Development order may be issued subject to appropriate conditions. Such modifications, agreements or conditions shall ensure that the necessary public facilities and services shall be available concurrent with the impacts of development. The concurrency impact statement issued in conjunction with a final Development order application shall specify any modifications, agreements, or conditions which shall be satisfied prior to the issuance of a building permit or certificate of use and occupancy or both. The concurrency impact statement issued in conjunction with a final development order application shall be furnished to the applicant and to the applicant, Board or other decision maker responsible for the issuance of the final Development order.
- f. Except where applicants have obtained a vested rights determination pursuant to Article 3, Division 18, or the final Development order application is exempt from the requirement of a concurrency compliance statement, all applications for final Development orders must obtain written confirmation that all required levels of service for public facilities and services have been satisfied and required modifications and/or conditions noted in previously issued concurrency compliance statement have been made. If the property for which application for a final Development order is made holds an expired reservation that was previously of record in accordance with Section 3-1304(E), the applicant must obtain an updated concurrency impact statement and is not entitled to rely on said expired reservation. At the time of the issuance of a final Development order building permit, the permit

holder shall be automatically required to pay a fee prescribed in the concurrency manual to reserve service capacities for a period of twelve (12) months from the date of final permit issuance, unless the building permit lapses in accordance with other City regulations. In addition, the holder of an affirmative final Development order may extend service capacity reservations for an additional twelve (12) months in accordance with the fees and terms prescribed in the concurrency manual, except as otherwise provided for Public School Concurrency Certificates in Section 3-1304(E)(2) above.

g. Certificates of use and occupancy may be issued without the requirement for further concurrency review where the applicant for the certificate of use and occupancy holds a valid, unexpired building permit for the identical use of the subject structure or site or pertinent portion thereof; provided said building permit is not subject to an enforceable development agreement or other conditions requiring the applicant to provide or contract for the construction of necessary public services and facilities or other appropriate service impact mitigation measures. Where the building permit is subject to such enforceable development agreement or appropriate conditions, no certificate of use and occupancy shall be issued until the Development Review Official determines that all agreements and conditions have been satisfied.

### **Section 3-13075. Concurrency review criteria.**

B. The public facilities and services needed to support development shall be deemed to be available concurrent with the impacts of development if the following criteria are satisfied:

1. The necessary public facilities and services are in place at the time a final Board of Architects approval and/or final development order is issued; or
2. A final Board of Architects approval and/or final development order is issued subject to the condition that the required public facilities and services will be in place when the impacts of the development occur; or
3. The necessary public facilities are under construction at the time the final Board of Architects approval and/or final development order is issued and such construction is the subject of enforceable assurance that it shall be completed and serviceable without unreasonable delay; or
4. The necessary public facilities and services are the subject of a binding executed contract for the construction of the facilities or the provision of services at the time the final Board of Architects approval and/or final development order is issued; or
5. The necessary public facilities are funded and programmed for implementation in the capital improvements element of the comprehensive plan for construction in year one (1) of the City's adopted capital budget, or similarly adopted budget of other government agencies; or
6. The necessary traffic circulation, and mass transit, or public school facilities or services or both are programmed for implementation in the capital improvements element of the comprehensive plan for construction in or before year three (3) of the city's adopted budget or similarly adopted budget of other governmental agencies including the county's capital budget, the School Board's Facilities Work Plan, or the state agency having operational responsibility for affected facilities; in all cases, such facilities must be committed for construction in or before year three (3); or
7. The necessary public facilities and services are guaranteed in an enforceable development agreement to be provided by the developer. An enforceable development agreement may include but is not limited to development agreements pursuant to Section 163.3220, Florida Statutes, or an agreement or development order issued pursuant to Chapter 380, Florida Statutes; or
8. Timely provision of the necessary public facilities and services will be guaranteed by some other means or instrument providing substantially equivalent assurances, subject to City review and approval; and
9. In all instances where a decision to issue a building permit is based on the foregoing provision (5), (6) or (7), or (8), all of the following conditions shall apply:
  - a. The necessary public facilities and services shall not be deferred or deleted from the capital improvements element of the comprehensive plan work program or adopted one (1) year capital budget unless the dependent final development order expires or is rescinded prior to the issuance of a certificate of use and occupancy; and
  - b. The public facilities and services necessary to serve development must be contracted for construction no later than thirty-six (36) months after the date that the initial certificate of use of occupancy is issued for the dependent development; and
  - b. Implementation Construction of the necessary public facilities and services must proceed to completion with no unreasonable delay or interruption.

B. In determining the availability of public facilities and services, the applicant may propose and the City may approve development in stages or phases so that the public facilities and services needed for each stage or phase will be available in accordance with the criteria required by this chapter.

### **Section 3-13086. Concurrency manual.**

The City shall promulgate and maintain a Concurrency Manual which shall contain the administrative procedures and fees to be applied in the implementation of this Division, as determined by the Director of the responsible department.. The concurrency manual shall include:

- A. Examples of preliminary, intermediate, and final development orders.
- B. Examples of Development orders which would have no impact or which would have impacts on levels of service which fall below the thresholds for public facilities and services.
- C. The methodologies to be used by the department in monitoring available capacity of public facilities and services and in preparing concurrency statements.
- D. The methodologies to be used by the department in evaluating applications for development orders for compliance with the concurrency review criteria.
- E. The methodologies to be used by the department in identifying geographic areas having surplus capacity for certain public facilities and services.
- F. The time frames within which the department and the applicant must complete any action which is required by this chapter.
- G. An administrative fee schedule.
- H. Examples of exceptions from concurrency review requirements.
- I. Procedures for obtaining relief from these regulations.

### **Section 3-13097. Appeals.**

An appeal from a negative concurrency determination may be taken to the City Commission by an aggrieved party in accordance with the provisions of Article 3, Division 6 of these regulations.