

ORDINANCE 91-27

AN ORDINANCE OF HERNANDO COUNTY, FLORIDA, TO BE KNOWN AS THE ADEQUATE PUBLIC FACILITIES ORDINANCE; AMENDING THE HERNANDO COUNTY, FLORIDA CODE OF ORDINANCES; PROVIDING FOR A SHORT TITLE; STATING A DECLARATION OF INTENT AND PURPOSE; PROVIDING FOR DEFINITIONS; PROVIDING FOR AN ADEQUATE PUBLIC FACILITIES REVIEW AND A CERTIFICATE OF CONCURRENCY; PROVIDING FOR A VALIDITY PERIOD FOR A CERTIFICATE OF CONCURRENCY; PROVIDING FOR EXEMPTIONS TO THE CONCURRENCY REVIEW; ESTABLISHING MINIMUM REQUIREMENTS TO MEET CONCURRENCY; DESCRIBING THE FACILITIES AND SERVICES SUBJECT TO CONCURRENCY REVIEW; ESTABLISHING FACILITY/SERVICE DEMAND CALCULATIONS; PROVIDING ALTERNATIVE DEMAND CALCULATIONS; ESTABLISHING APPELLATE PROCEDURES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION OF THIS ORDINANCE INTO THE HERNANDO COUNTY LAND DEVELOPMENT REGULATIONS; AND ESTABLISHING AN EFFECTIVE DATE.

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BE IT ORDAINED BY THE COUNTY COMMISSIONERS OF HERNANDO COUNTY, FLORIDA AS FOLLOWS:

SECTION 1; SHORT TITLE. THIS ORDINANCE SHALL BE KNOWN AND MAY BE CITED AS THE ADEQUATE PUBLIC FACILITIES ORDINANCE.

SECTION 2: FINDINGS. THE HERNANDO COUNTY BOARD OF COUNTY COMMISSIONERS FINDS THAT:

WHEREAS, Chapter 163.3167, Florida Statutes, required Hernando County, Florida, to prepare and adopt a comprehensive plan as scheduled by the Department of Community Affairs; and

WHEREAS, The Board of County Commissioners of Hernando County conducted public hearings relating to the adoption of the Hernando County Comprehensive Plan in accordance with Chapter 163.3167 Florida Statutes; and

WHEREAS, it is the responsibility of the Board of County Commissioners to adopt regulations that adequately plan for and guide growth and development within the County; and

WHEREAS, Section 163.3202, Florida Statutes, requires that Hernando County adopt land development regulations to provide that public facilities and services meet or exceed the adopted level of service standards set forth in the Hernando County Comprehensive Plan; and,

WHEREAS, Chapter 9J5.0055 establishes the minimum requirements necessary to ensure the facilities and services needed to support development are available concurrent with the impacts with such development; and,

WHEREAS, The Board of County Commissioners, in adopting this ordinance, is establishing the sole procedure for determining the adequacy of public facilities at the time of development.

SECTION 3: INTENT AND PURPOSE

It is the intent of this Ordinance to establish minimum criteria for the Concurrence Management System and authorize the preparation of an administrative procedure for determining that public facilities and services meet or exceed the adopted level of service standards set forth in the Hernando County Comprehensive Plan.

SECTION 4: DEFINITIONS

Available Capacity Review: A preliminary review conducted by the county to determine if an application for a rezoning or special exception is consistent with the comprehensive plan. Adequate public facilities for potable water, sewage treatment, drainage, solid waste, recreation and transportation must be available in order to deem the request consistent with the Hernando County Comprehensive Plan.

Certificate of Concurrency: The certificate issued by the County upon finding that an application for a development permits meets the standards set forth in the Hernando County Comprehensive Plan for public facilities and services.

Concurrency Management System: The procedures and/or process that the local government will utilize to assure that development orders and permits are not issued unless the necessary facilities and services are available concurrent with the impacts of development.

Development: The carrying out of any building activity, the making of any material change in the use or appearance of any structure or land, or the dividing of land into two or more parcels.

Equivalent Residential Unit: The numerical value associated with the average household size of single-family dwelling units.

Public Facilities and Services: Shall mean the following facilities and services for which level of service standards have been established in the Hernando County Comprehensive Plan:

- (a) potable water
- (b) sewage treatment
- (c) drainage
- (d) solid waste disposal
- (e) parks
- (f) transportation

SECTION 5: AVAILABLE CAPACITY REVIEW

1. In order to determine if an application for a rezoning or special exception is consistent with the provisions of the comprehensive plan, an available capacity review will be conducted by the county. This procedure is a review and does not constitute a binding determination by the county.
2. The following public facilities will be reviewed for adequacy to the subject site: potable water, sewage treatment, drainage, solid waste, parks and transportation.
3. The applicant shall be required to sign an affidavit stating it is understood that the available capacity review is not a concurrency determination and does not relieve the applicant from applying for a concurrency determination.
4. Any person may request an available capacity review at any time for the public facilities identified in this ordinance.
5. An available capacity review fee will be established by the Board of County Commissioners.

SECTION 6: CERTIFICATE OF CONCURRENCY

1. A valid Certificate of Concurrency must be issued to a property owner or his designated representative prior to the issuance of the following development orders:
 - a. zoning permit
 - b. building permit
 - c. conditional subdivision plat approval
 - d. final subdivision plat approval

- e. development orders for DRI's
 - f. construction drawing approval
2. The property owner or his designated representative shall apply for a Certificate of Concurrency by filing a technically complete sworn application and application fee with the Department of Planning, upon a form to be provided by said Department.
 3. The Board of County Commissioners shall establish an appropriate fee structure by resolution and said fees shall be filed with the application for a Certificate of Concurrency.
 4. If the application is deemed concurrent, a Certificate of Concurrency will be issued by the County. If a development requires more than one development permit, the issuance of the Certificate of Concurrency shall occur prior to the issuance of the initial development permit. For developments requiring multiple development permits, the Certificate of Concurrency will be valid to project completion provided development continues in accordance with the standards and time frames authorized by the initial development permit.
 5. If the application is deemed not to be concurrent, the applicant will be notified in writing by the County.
 6. The burden of meeting the concurrency test shall be upon the applicant. The County will direct the applicant to the appropriate staff to assist in the preparation of the necessary documentation and information for inclusion into their application.

SECTION 7. CONCURRENCY CERTIFICATE VALIDITY

1. An application for a development order must be initiated within three (3) months from the date the Certificate of Concurrency is issued to remain valid. If the development order has not been obtained within one (1) year from the date the Certificate of Concurrency was issued, the certificate shall expire.
2. If a development order has not been secured within one (1) year from the date of the issuance of the Certificate of Concurrency, the applicant may apply to the County to extend the Certificate's validity period. The application to extend the validity period must be received by the County at least 30 days prior to the expiration of the Certificate of Concurrency. The applicant must demonstrate just cause exists for the extension. The County will consider the following factors in making the determination:
 - 1) The inability to secure a development order was due to actions of a regulatory agency following submission of a complete application; or,
 - 2) The applicant was required to redesign the project as a result of conditions attached to permits issued by regulatory agencies; or,
 - 3) Any other relevant circumstances beyond the control of the applicant.

Upon meeting any of the above criteria, County Staff may extend the applicant's Certificate for a period not to exceed 90 days. The decision of the County Staff is appealable to the Board of County Commissioners.

3. The certificate of concurrency shall apply to the land and is therefore transferrable from owner to owner of the subject project and parcel.

4. Any alteration in scope, magnitude, location, project traffic circulation and/or distribution for the subject property must be reported to and approved by the County for certificate reevaluation. If such alterations are not reported, the Certificate of Concurrency will be subject to revocation.
5. Public facilities must serve land development adequately according to adopted level of service standards contained within the Hernando County Comprehensive Plan. This certificate verifies adequacy and will reserve capacity until it expires. It offers no other assurance, does not approve any development order, and does not grant any development rights.

SECTION 8: EXEMPTION FROM ADEQUATE PUBLIC FACILITIES REVIEW AND CONCURRENCY REVIEW

1. The purpose of the concurrency review is to determine a project's impact on the provision of public facilities/services. The following will be exempt from the concurrency review:
 - (a) single family home or duplex
 - (b) non-residential projects consisting of less than 1,500 square feet, generating less than 20 average daily trips (ADT), and using less than 500 gallons of water per day.

SECTION 9: MINIMUM REQUIREMENTS FOR CONCURRENCY

1. A development order will be issued only if the proposed development does not lower the existing level of service of a facility/service below the adopted level of service in the Hernando County Comprehensive Plan. The minimum criteria to satisfy concurrency requirements have been established in Rule 9J5.0055.
 - A. For potable water, sewer, solid waste and drainage the following standards must be met, at a minimum, to satisfy the concurrency requirement:
 1. The necessary facilities and services are in place at the time a development permit is issued; or
 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
 3. The necessary facilities are under construction at the time a permit is issued; or
 4. The necessary facilities and services are guaranteed in an enforceable development agreement. The agreement must guarantee that the necessary facilities and services will be in place when the impacts of the development occur.
 - B. For parks the criteria under Section 9(A) 1 - 4 may be applied or the following minimum standards may be applied:
 1. At the time the development permit is issued, the necessary facilities and services are the subject of a binding executed contract which provides for the commencement of actual construction of the required facilities or the provision of services within one year of the issuance of the development permit; or,

2. The necessary facilities and services are guaranteed in an enforceable development agreement which requires commencement of 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, Florida Statutes, or an agreement or development order issued pursuant to Chapter 380, Florida Statutes.
- C. For Transportation facilities designated in the adopted Hernando County Comprehensive Plan, the concurrency requirement may be satisfied by following the criteria under Section 9 (A) 1 - 4 or (B) 1 and 2, above. For transportation facilities included in Hernando County's 5-year schedule of capital improvements, the concurrency requirement can be satisfied by meeting at a minimum the following provisions:
1. Necessary public facilities are in the five-year schedule of capital improvements and construction is scheduled to commence in or before the third year, provided that the capital improvements element and the five-year schedule of capital improvements continues to be:
 - (a) A capital improvements element and a 5-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 5-year work program.
 - (b) A 5-year schedule of capital improvements which must include both necessary facilities to maintain the adopted level 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 5-year period under the local government plan's schedule of capital improvements.
 - (c) A 5-year schedule of capital improvements which must include the estimated date of commencement of actual construction and the estimated date of project completion.
 - (d) A 5-year schedule of capital improvements which must demonstrate that the actual construction of the road and the provisions of services are scheduled to commence in or before the third year of the 5-year schedule of capital improvements.
- D. In determining the availability of services or facilities, a developer may propose and the county may approve, developments in stages or phases so that the facilities and services needed for each phase will be available in accordance with the standards required by this section.

SECTION 10: FACILITIES/SERVICES SUBJECT TO CONCURRENCY DETERMINATION

A Concurrency determination shall be made for the following public facilities/services:

- (a) potable water
- (b) sewage treatment
- (c) drainage
- (d) solid waste disposal
- (e) parks
- (f) transportation

SECTION 11: FACILITY/SERVICE DEMAND CALCULATIONS

1. The following calculations shall be used to determine the projected demand of the proposed project described in an application for a development permit on the public facilities and services. The calculations are listed by public facility and service type. The information necessary to enable the county to perform the facility/service demand calculations in the following shall be provided by the applicant to the county.

A. POTABLE WATER

Adopted LOS = 250 gal/day/Equivalent Residential Unit (ERU)

$$250 \text{ gal} \times \text{ ______ } \text{ERU's} = \text{demand}$$

B. SEWAGE TREATMENT

Adopted LOS = 200 gal/day/ERU

$$200 \text{ gal} \times \text{ ______ } \text{ERU's} = \text{demand}$$

C. DRAINAGE

Adopted LOS = post development runoff shall be no greater than pre-development runoff based on 25-year frequency, 24-hour duration; Rainfall Intensity curve-zone 8, Florida Department of Transportation Drainage Manual, 1979.

D. SOLID WASTE

Adopted LOS = 5 lbs/day/person (non-residential uses are included in the adopted LOS)

Solid Waste will be calculated on a county wide basis at regular intervals.

Current Est.		5 lbs. per capita	
Population	X	per day	= Demand

E. PARKS

Total LOS = 4.00 acres/1,000 people with
2.00 acres/1,000 for user-oriented facilities
2.00 acres/1,000 for open space

Parks will be calculated on a county wide basis at regular intervals.

User-oriented facilities

Current Est.

Population/1,000 X 2 acres = Demand (acres)

Open Space

Current Est.

Population/1,000 x 2 acres = Demand (acres)

F. Transportation

Refer to the Hernando County Comprehensive Plan for the adopted level of service standards.

1. Determine the number of trips generated by the proposed project during the P.M. peak hour, using the most recent edition of ITE's Trip Generation, with no adjustment for internal capture or passerby trips.
2. If the project is calculated to generate more than 50 P.M. peak hour trips, a transportation study shall be done. The report shall be signed and/or sealed by a registered Professional Engineer.
 - a. If a transportation study is not required as per Section 7(2) of this ordinance, the applicant is required to provide only the existing plus project directional P.M. peak hour traffic volumes distributed to the closest functionally classified roadway link(s) from all project entrances.
 - b. The data shall be in conformance with notes 5(C)(2)a-c of Existing Conditions below.
3. If a transportation study is required, it shall be obtained and submitted by the applicant for a development permit, at the applicant's expense.
4. Unacceptable degradation - for the purpose of evaluating transportation impacts on backlogged facilities, means that the number of vehicular trips per day generated by the development on the impacted link(s) exceeds 2% of LOS D for the functional classification of the thoroughfare as given in the FDOT LOS Maximum Volume generalized tables.
5. Requirements of Transportation Study
 - A. Preapplication Meeting

A preapplication meeting between Hernando County and the applicant is strongly recommended. The purpose of this meeting will be to review the transportation study methodology and procedure, and to determine the study period. This will typically include a P.M. peak hour analysis; however, other time periods may also be required in the analysis.
 - B. Define Study Area

The study area is defined as roadways impacted by the project at 4.5% of daily LOS "D" capacity.

C. Existing Conditions

The following existing transportation network information shall be provided:

1. Existing directional P.M. peak hour traffic volumes and level of service on all county designated collectors and arterials within the study area.
2. Existing turning movement volumes at the impacted intersection(s) and intersection(s) level(s) of service.

Notes:

- a. the above required data shall be no older than the previous calendar year. The data must be the most recent available from the county or from another approved source. Volumes shall be adjusted to reflect annual conditions using current FDOT seasonal adjustment factors for Hernando County or other adjustment factors approved by the county.
 - b. the above required level(s) of service for roadways shall be determined in accordance with current FDOT Generalized Level of Service Procedures.
 - c. The above required intersection capacity(s) shall be determined using computer software based on the most recent edition of the Highway Capacity Manual, Special Report 209, Transport Research Board, National Research Counsel.
3. The Florida Department of Transportation (FDOT) Tables of Generalized Daily Level-of-service Maximum Volumes or associated highway capacity software will be used to determine initial highway capacities. The measurement of capacity may also be determined by substantiation in the form of engineering studies signed and sealed by a licensed Professional Engineer. Traffic analysis techniques must be technically sound and justifiable as determined by FDOT. Alterations to capacity on the State Highway System beyond ranges established by agreement between the County and FDOT shall require FDOT review and approval.

D. Projection of Background Traffic

Volume(s) shall be projected for the year of the project completion. Volumes can be determined using one of the following procedures:

1. Multiplying existing volumes by an annual growth factor provided by the

county. Traffic generated by any major project approved since the traffic counts were conducted shall be included as background traffic.

2. Multiply existing volumes by an annual growth factor approved by the county. This growth factor must be based on data collected on three roadways in the vicinity of the project over at least the last two years. Traffic generated by any major project approved since the traffic counts were conducted shall be included as background traffic.
3. Develop a gravity model.

E. Project Traffic Generation

The following procedures and information shall be provided:

1. To determine project traffic generation, the current edition of ITE's Trip Generation shall be used.
2. Identify all project land uses, amount of development, and trip rates.
3. Trip rates may be obtained from studies of comparable sites in Hernando County or using data from previous traffic generation studies and are subject to the approval of the county.
4. Any proposed reduction factors for capture of trips between land uses of a mixed use project or for passerby trips shall be provided by the applicant at a preapplication/methodology meeting and approved by the county.

F. Project Traffic Distribution

One of the following methods shall be used:

1. If the project generates fewer than 100 peak hour trips, the distributions can be developed based on those of similar projects.
2. For any project, manual gravity model distribution can be developed. The travel-time method described in Chapter 3 of ITE Transportation and Land Development shall be used.
3. For any project, a county approved computerized distribution model, such as FSUTMS or QRS II, can be developed.

SECTION 12: ALTERNATIVE DEMAND CALCULATIONS

If the applicant claims the standards provided in the demand calculations are not applicable to the proposed project, the applicant shall submit appropriate documentation supporting the

proposed alternative demand calculation to the county. Any alternative calculation standard shall be subject to approval of the County.

SECTION 13: APPELLATE PROCEDURES

Any appeal of a denial of a Certificate of Concurrency shall be to the Hernando County Board of County Commissioners within thirty (30) days of the decision.

SECTION 14: SEVERABILITY

If any section, subsection, sentence, clause, or phrase of this ordinance for any reason is held to be unconstitutional, void or invalid, the validity of the remaining portions of said ordinance shall not be affected thereby.

SECTION 15: INCLUSION INTO THE CODE

The provisions of this ordinance shall be included and incorporated into the Land Development Regulations of Hernando County, as an addition or amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the code.

SECTION 16: EFFECTIVE DATE

This Ordinance shall become effective upon recording of the official acknowledgement from the Office of the Secretary of State of the State of Florida that this ordinance has been filed with said Office.

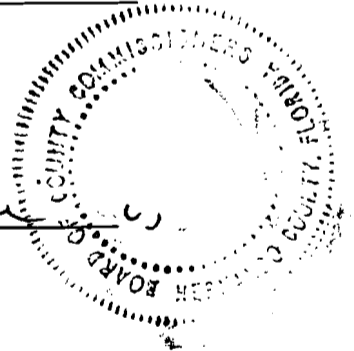
ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS IN REGULAR SESSION THIS 31st DAY OF JULY 1991.

**BOARD OF COUNTY COMMISSIONERS
HERNANDO COUNTY, FLORIDA**

BY: *Harold D. Varvel*
**HAROLD D. VARVEL,
CHAIRMAN**

SEAL

ATTEST: *Karen Nicolai*
**KAREN NICOLAI,
CLERK**



I hereby certify that the foregoing is a true and correct copy of the original.
Karen Nicolai, Clerk Circuit Court Hernando County, Florida
By: *Judy A. Korbus* D.C.