

# **CONCURRENCY MANAGEMENT SYSTEM INFORMATION GUIDE 2007**

## **1. BACKGROUND**

The purpose of this Concurrency Management System Information Guide is to provide a quick-reference guide regarding how concurrency is applied and managed in Orange County. This Information Guide is not a summary of the County's Concurrency Management Ordinance. Therefore, for complete concurrency management information, applicants should refer to the full text of Chapter 30, Planning and Development, Orange County Code of Ordinances (the "Code"), specifically Article XI Vested Rights (Sec. 30-341 to 30-392) and Article XII Concurrency Management (Sec. 30-500 to 30-624, the "Concurrency Management Ordinance"). In the event there are any contradictions between this Information Guide and the above referenced Orange County Code, the Code shall control. This Information Guide does not address consistency with the comprehensive plan or any other review or requirement not specific to concurrency.

This Information Guide will use the following acronyms in the discussion of the concurrency management system.

CMS	=	Concurrency Management System
VRC	=	Vested Rights Certificate
CIL	=	Capacity Information Letter
CEL	=	Capacity Encumbrance Letter
CRC	=	Capacity Reservation Certificate
CMO	=	Concurrency Management Official
BCC	=	Board of County Commissioners
PSP	=	Preliminary Subdivision Plan
LOS	=	Level of Service

The term "concurrency" has its roots in the growth management legislation contained in Chapter 163, Florida Statutes, which requires that public facilities and services needed to support development must be available "concurrent" with the local impact of such development. The Florida Statutes require local governments to adopt and maintain level of service standards for roads, stormwater drainage, water, wastewater, solid waste, and parks. Local governments with a population exceeding 50,000 must also adopt and maintain mass transit level of service standards. The standards for each of these services are listed in the County's Comprehensive Policy Plan (See Capital Improvements Element, Objective 1.3). If capacity for each and all of the above listed services and/or facilities is not available, a development permit cannot be issued.

Of all the public facilities affected by concurrency requirements, transportation is often the most difficult to meet. Two of the options available to an applicant for a building permit to fulfill the state-mandated requirement of transportation concurrency are: obtaining a Vested Rights Certificate (VRC) or a Capacity Reservation Certificate (CRC). First, Article XI, Chapter 30 of the Code (Sec. 30-341 to 30-392) explains the criteria that must be met to receive a VRC and thereby, be exempt from the transportation concurrency requirements.

Second, Article XII, Chapter 30 of the Code (Sec. 30-500 to 30-624) explains the requirements that must be met in order to reserve capacity for a project that is not entitled to vested rights. The remainder of this Information Guide will provide basic information regarding the above options.

## **2. CONCURRENCY MANAGEMENT SYSTEM**

### **2.A Exemptions**

Unless a proposed development receives a VRC (as explained below in Section 3) or is specifically exempt, no development order or permit will be issued except in accordance with the requirements of the CMS Ordinance. Exemptions from the CMS Ordinance can be found in Section 30-503 of the CMS Ordinance.

### **2.B Capacity Reservation Process**

Developments which are entitled to move forward under the CMS Ordinance must reserve capacity. There are three main documents involved in the capacity reservation process. They are summarized as follows.

1. Capacity Information Letter (CIL): The CIL is an optional, non-binding analysis of existing levels of service for the public facilities and services in the vicinity of the parcel identified in the application at the time the CIL is issued. It does not guarantee capacity will be available in the future or encumber/reserve capacity for any period of time nor does it purport to analyze the impact of the applicant's proposed project on public facilities and services or examine the sufficiency of the existing levels of service. The CMO shall issue the CIL within ten (10) calendar days after receipt of a complete application accompanied by the appropriate fee. The specific application and evaluation process for a CIL is provided in Secs. 30-570 through 30-573 of the Code.
2. Capacity Encumbrance Letter (CEL): The CEL identifies whether or not capacity is available for a particular parcel according to a specific proposed development plan at the time the CEL is issued. If the CMO determines capacity is available, the capacity will be encumbered for one hundred twenty (120) days from the date the CEL is issued. Within the one hundred twenty (120) day period, the applicant must either obtain a building permit or reserve capacity by obtaining a Capacity Reservation Certificate (CRC). The CMO must approve or deny the CEL within twenty-one (21) days after receipt of a complete application accompanied by the appropriate fee. A CEL and a CRC (or building permit) must be obtained before a residential plat is approved for recording; or before a final commercial site plan is approved. The application and evaluation process for a CEL is provided in Secs. 30-580 through 30-588 of the Code.

If during the concurrency evaluation, the CMO determines that there is a lack of sufficient capacity to accommodate the applicant's request, a capacity encumbrance denial letter will be issued. Upon receipt of a capacity encumbrance denial letter, the applicant shall have sixty (60) calendar days from the issuance of a capacity encumbrance denial letter to submit an application (i) to be placed on the capacity waiting list (Sec. 30-586 of the Code), (ii) to pursue the concurrency denial/mitigation process (Secs. 30-620 – 30-624 of the Code), and/or (iii) to pursue the proportionate fair-share contribution remedy (for a transportation facilities deficiency only) (Secs. 30-620 – 30-624 of the Code).

3. Capacity Reservation Certificate (CRC): If a building permit cannot be obtained within 120 days of the receipt of the CEL, a CRC must be obtained in order to reserve the requested capacity. No CRC shall be issued until and unless the required portion of the capacity reservation fee is paid in full. The capacity reservation fee is equivalent to 100% of the transportation impact fees for the project. The CMO must issue the CRC within fourteen (14) calendar days after the receipt of a complete application and the appropriate fee. The application and evaluation process for a CRC is provided in Secs. 30-590 – 30-598 of the Code.

### **C. Concurrency Fee Schedule**

The CMS processing fee schedule is shown below. A check for the appropriate fee, made payable to the Orange County Board of County Commissioners, must be submitted with the application to the Orange County Growth Management Department, Fiscal & Administrative Services Division. Please note that a capacity reservation fee, which is equivalent to 100% of the transportation impact fees for the project (or a portion thereof, as allowed by the Concurrency Management Ordinance), must be paid with the application for the Capacity Reservation Certificate.

Non-Binding Capacity Information Letter	=	\$171.00
Capacity Encumbrance Letter	=	584.00
Capacity Reservation Certificate	=	114.00
Appeal Staff Determination to the DRC	=	127.00

## **3. VESTED RIGHTS**

### **3.A Criteria**

Development entitled to and issued a Vested Rights Certificate (VRC) is exempt from the CMS. It should be noted that no project will automatically possess vested rights; they must be applied for through the process summarized below in 3B. The Concurrency Vested Rights Ordinance (Sec. 30-370 – 30-392) provides the description of development which may be entitled to vested rights, the specific procedures and criteria which must be met in order to receive a VRC and criteria to determine the expiration of VRC's. Upon application, a

development may be eligible for vested rights based on one or more of the criteria listed below:

1. A Development of Regional Impact (DRI), with an unexpired development order, that was approved by the Board of County Commissioners ("BCC") on or before December 2, 1991 (pursuant to Section 380.06, F.S.).
2. A DRI that received a binding letter of vested rights on or before December 2, 1991, provided such rights are still valid and have not expired.
3. A structure, for which a building permit has been issued on or before December 2, 1991, provided the building permit has not expired.
4. A platted residential subdivision that was approved after 1965 and for which the plat was recorded on or before December 2, 1991.
5. A residential subdivision, for which a Preliminary Subdivision Plan (PSP) was approved after 1965 but on or before December 2, 1991, and which PSP has not expired.
6. A non-residential subdivision, for which a subdivision or single-lot plat was approved after 1965, and which plat was recorded on or before December 2, 1991.
7. A non-residential subdivision, for which a PSP was approved after 1965, but on or before December 2, 1991, and such PSP has not expired.
8. A project that must comply with the Orange County Site Development Ordinance and for which a building permit was issued on or before December 2, 1991.
9. Any other project which, as of December 2, 1991, meets the four "common law vesting" criteria listed in the Vested Rights Ordinance (Sec. 30-363)

### **3.B Procedures**

1. A Concurrency Vested Rights application must be completed and returned to the Manager of the Orange County Concurrency Management Office with the appropriate supporting documentation and processing fee to begin the review process for vested rights. The review process for Concurrency Vested Rights applications is summarized as follows:
  - a. The Concurrency Management Official (CMO) shall either grant or deny the VRC within forty-five (45) days after receipt of a completed application.
  - b. If the application is denied and the applicant wishes to appeal the CMO's decision, the applicant must file a written notice of appeal with the CMO within thirty (30) days from the date the CMO renders (as that term is defined in Section 30-386 of the Code) his or her decision.

- c. Upon receipt of a timely notice of appeal, the appeal is assigned to a Hearing Officer for a hearing to be held no later than ninety (90) days after receipt of the notice of appeal or at such later date as the applicant may consent to.
  - d. The Hearing Officer must render a written decision on the application within thirty (30) days after the hearing concludes.
  - e. If the applicant is denied and wishes to challenge the Hearing Officer's decision, he or she may appeal to the Board of County Commissioners (BCC). The applicant must file a written notice of appeal with the Clerk to the BCC no later than fifteen (15) days after the Hearing Officer's decision is filed with the Clerk to the BCC.
  - f. If the applicant is denied and wishes to challenge the decision of the BCC, the applicant must file a petition for writ of certiorari with the Clerk of the Circuit Court for the Ninth Judicial Circuit no later than thirty (30) days after the decision of the BCC is filed with the Clerk to the BCC.
2. A VRC may be suspended or revoked by the County under certain circumstances, provided however, that the BCC must hold a hearing regarding revocation of any vested rights certificate (Sec. 30-391).

### **3.C Concurrency Vested Rights Fee Schedule**

The concurrency vested rights fee schedule is as follow. A check for the appropriate amount, made payable to the Board of County Commissioner, must be submitted with the application.

Concurrency Determination for Other than One Residential Unit	=	200.00
Simultaneous Concurrency & Consistency Determination for Other than One Residential Unit	=	300.00
Appeal of Staff Concurrency Determination	=	127.00