

**ORDINANCE 2008-05**

(School Concurrency Requirements – Ch. 23, Article VII)

**AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, AMENDING THE ZONING, LAND USE AND DEVELOPMENT REGULATIONS, CHAPTER 23 OF THE CODE OF ORDINANCES, ARTICLE VII. IMPACTS OF DEVELOPMENT ON PUBLIC FACILITIES; REQUIRING PUBLIC SCHOOL CONCURRENCY FOR RESIDENTIAL DEVELOPMENT APPROVALS; ESTABLISHING LEVEL OF SERVICE STANDARDS FOR PUBLIC SCHOOLS; PROVIDING FOR MITIGATION ALTERNATIVES WHERE ADOPTED LEVEL OF SERVICE STANDARDS CANNOT BE MET; AND PROVIDING FOR AN EFFECTIVE DATE.**

**BE IT ENACTED** by the City Commission of the City of Lake Wales, Polk County, Florida:

**SECTION 1:**                    **Sec. 23-701. “Purpose and intent, definitions”** is hereby amended as follows:

**Subsec. a)** is amended to read as follows:

a) This division establishes a “concurrency management system” to evaluate development applications to ensure that adequate capacity in required public facilities is or will be available to serve the proposed development at the time it is required. In accordance with F. S. § 163.180, public facilities subject to the concurrency management system are: sanitary sewer, potable water, solid waste, roads, public schools, recreation and open space, and drainage. The demand on a public facility is calculated through the use of the level of service (LOS) standard for that facility or service adopted by the city in the Lake Wales Comprehensive Plan and set forth in Table 23-705.

**Subsec. d)** is hereby amended to add “Public Schools” to the definition of “Concurrency facilities,” as follows:

*Concurrency facilities:* Public facilities and services for which a level of service must be met concurrent with the impacts of development or an acceptable deadline, as mandated in the City of Lake Wales Comprehensive Plan pursuant to F. S. ch. 163 and 9J-5.0055 FAC shall include: Sanitary Sewer, Potable Water, Solid Waste, Roads, Public Schools, Recreation & Open Space, and Drainage.

**SECTION 2:**                    **Sec. 704.4 “Concurrency review process” subsec. a. “Development impact data”** is hereby amended by the addition of subsec. 7 to read as follows:

7. Public schools: School concurrency requirements shall apply to all developments with residential units if a major or minor site plan, subdivision plat or planned development project plan is required for the development under this chapter. Preliminary

projections of students to be generated by the development shall be provided with an application for a preliminary subdivision plat, preliminary planned development project plan, or major or minor site plan. A finding by the administrative official that school concurrency requirements are satisfied is required prior to the issuance of a site development permit, building permit, or certificate of use for any project or change of use impacting public schools, unless specifically exempted under this chapter.

**SECTION 3:**

**Sec. 704.4. “Concurrency review process” subsec. c. “Reservation of capacity”** is hereby amended as follows:

- c. *Reservation of capacity.* A reservation of capacity shall be granted with a site development permit, a building permit, or certificate of use only upon a finding of adequate capacity in all facilities requiring concurrency review and satisfaction of the requirements of sec. 23-731, as applicable.
  1. *Building permit or certificate of use.* A building permit or certificate of use shall be granted only if capacity in all required facilities is found to be adequate for a proposed new use or change of use requiring an increase in utility service capacity. For potable water and wastewater, a reservation of capacity shall not be granted without payment of applicable impact fees per Article VII, Division 4. Such reservation shall expire with the building permit if the project is not completed, and in cases where a building permit is not required, it shall expire 6 months from the date of its issuance if the use for which the certificate was issued is not established.
  2. *Preliminary plans.* A preliminary site plan, subdivision plat or planned development project plan shall be approved only upon a finding that there will be sufficient capacity available for the project at the time it is required or that measures to correct any deficiency have been identified and agreed to by the city in writing. Capacity for a development with an approved and unexpired preliminary plan or plat shall be used in calculating available capacity during the review of other preliminary plans. However, except as otherwise provided in this chapter, no reservation of capacity shall be granted with approval of a preliminary plan or plat, and approval of preliminary plans does not guarantee that capacity will be available at the site development permit stage of project review.
  3. *Site development permit.* A site development permit under sec. 23-217 shall be issued only upon a finding of adequate capacity in required facilities and approval by the city of a utility services agreement if required under sec. 23-731. If exempted

under that section, a project shall be granted a reservation of potable water and wastewater treatment capacity only upon payment of applicable impact fees per Article VII, Division 4. If site work has not substantially commenced, a reservation of capacity shall expire one year from the date of site development permit issuance. Developments for which preliminary plans were approved prior to May 1, 2007, a utility services agreement is required prior to the approval of the site development permit, or, if the site development permit has been issued prior to the effective date of this ordinance, prior to the submission of application for final plat or building permit.

**SECTION 4:** **Table 23-705 “Level of Service Standards”** is hereby amended as follows:

Under the column for “Facility” add: Public Schools

Under the column for “Level of Service” add the following for “Public Schools”:

PERCENT OF PERMANENT FLORIDA INVENTORY OF SCHOOL HOUSES (FISH) CAPACITY, BY SCHOOL YEAR

<u>2008-09</u>	<u>2009-10</u>	<u>2010-11</u>	<u>2011-12</u>	<u>2012-13</u>
<u>Elementary Schools</u>				
122%	122%	115%	100%	100%
<u>Middle Schools</u>				
113%	113%	110%	100%	100%
<u>High Schools</u>				
110%	110%	105%	100%	100%

Magnet and School of Choice  
100% of enrollment quota as established by the School Board or court ordered agreements and as adjusted by the School Board annually.

Other: K-8, 6<sup>th</sup> grade centers, 9<sup>th</sup> grade centers, 6-12  
100% of permanent DOE FISH capacity

Special Facilities  
Including alternative education or special programmatic facilities that are designed to serve a specific population on a countywide basis or for temporary need and are not zoned to any specific area. Therefore, they are not used for concurrency determinations.

Conversion Charter Schools

As set by contract.

**SECTION 5:**

**Sec. 23-706. “Application of level of service standards”** is hereby amended by the addition of number 7 to read as follows:

7. Public schools. The demand for public school capacity shall be based upon the number of units proposed and the student generation ratios approved for use by the Polk County School Board.

**SECTION 6:**

**Sec. 23-708. “Criteria for concurrency” subsec. a. “Minimum criteria”** is hereby amended by the addition of number 5 to read as follows:

5. Public schools. School concurrency decisions should support and not be in conflict with growth management policies of the comprehensive plan and shall be based upon the School Board’s concurrency review findings and recommendations and Interlocal Agreement.

A. Concurrency approval shall be granted by the administrative official only where:

- i. The School Board’s findings indicate adequate school facilities for each level of school will be in place or under construction within three (3) years of the issuance of the subdivision plat or site plan for each level of school.
- ii. Adequate school facilities are available in the relevant School Concurrency Service Area (CSA) or adjacent CSA where impacts of development can be shifted to that area; or
- iii. The developer executes a legally binding commitment to provide mitigation proportionate to the demand for public school facilities to be created by the actual development of the property subject to the final plat or site plan.
- iv. The identified deficiency is mitigated by available capacity in a start-up charter school.

B. In the event that there is not sufficient capacity in the affected concurrency service area based on the adopted level of service standard to address the impacts of a proposed development, and the availability standard for school concurrency cannot be met, one of the following shall apply:

- i. The project shall provide capacity enhancement(s) sufficient to meet its impact through mitigation approved by the School Board and consistent with the City's School Facilities Element of the Comprehensive Plan; or
- ii. The project shall be delayed to a date when the level of service can be ensured through capital enhancement(s) of planned capacity increases; or
- iii. A condition of approval of the subdivision or site plan is imposed to phase the project's impact on a schedule ensuring that capacity enhancement and level of service can be ensured; or
- iv. The project shall not be approved.


C. If the impact of the project will not occur until years 2 or 3 of the School Board's financially feasible Five-Year Program of Work, then any relevant programmed improvements in those years shall be considered available capacity for the project and factored into the level of service analysis. If the impact of the project will not be felt until years 4 or 5 of the Five-Year Program of Work, then any relevant programmed improvements shall not be considered available capacity for the project unless funding of the improvement is ensured through School Board funding to accelerate the project, through proportionate share mitigation or some other means.

**SECTION 7:** This ordinance shall become effective March 1, 2008.

**CERTIFIED AS TO PASSAGE** this 19<sup>th</sup> day of February, 2008.

  
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Mayor/Commissioner

ATTEST:

  
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City Clerk