

CITY OF ST. PETE BEACH, FLORIDA

ORDINANCE NO. 2009-05

AN ORDINANCE OF THE CITY OF ST. PETE BEACH, PINELLAS COUNTY FLORIDA PROVIDING FOR AMENDMENT OF DIVISION 29 OF THE LAND DEVELOPMENT CODE; PROVIDING FOR REGULATIONS FOR SCHOOL CONCURRENCY; PROVIDING FOR THE REPEAL OF ORDINANCES OF PARTS OF ORDINANCES IN CONFLICT HERewith, TO THE EXTENT OF SUCH CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 163.3177(12) of Florida Statutes was amended in 2005 to require all non-exempt counties and each non-exempt municipality within those counties to adopt and implement a public school facilities element and a school concurrency program; and

WHEREAS, The City Commission adopted amendments to the St. Pete Beach Comprehensive Plan on April 8, 2008 to establish concurrency policies for public schools; and

WHEREAS, The City is required to amend its Land Development Code to implement rules and procedures for evaluating applications for determination of meeting school concurrency; and

WHEREAS, the City Commission has determined the Ordinance to be in the best interest of the health, safety and welfare of the citizens of the City; and

WHEREAS, notice of this Ordinance has been provided in accordance with applicable law.

NOW, THEREFORE, THE CITY COMMISSION OF THE CITY OF ST. PETE BEACH, FLORIDA HEREBY ORDAINS:

Section 1. Division 29 of the City of St. Pete Beach, Florida Land Development Code, pertaining to Concurrency Management, is hereby amended in accordance with the following:

Sec. 29.2. Definitions.

Additional School Capacity means school facilities that will be in place or under actual construction within three years based on the Five-Year Work Program.

Available School Capacity shall include the school facilities that will be in place or under construction within three years, according to the Five-Year Work Program and shall be calculated based on the following formula:

$$\text{Available Capacity} = \frac{[\text{FISH School Capacity} + \text{Additional Capacity}] - [\text{Enrollment} + \text{Vested Students}]}{100}$$

Concurrency Service Area means the areas of the county within which the level of service will be measured for school concurrency purposes, as adopted in the Public School Facilities Element of the Comprehensive Plan.

Development Order means any order granting, denying, or granting with conditions, an application for development.

Educational Plant Survey or the Five-Year Plant Survey means the systematic study of educational and ancillary plants of the School Board conducted at least every five years to evaluate existing facilities and plan for future facilities to meet proposed program needs.

Enrollment means the official student enrollment count of the fall semester.

Existing Level of Service for School Concurrency is calculated based on the following formula:

$$\text{LOS} = \frac{[\text{Student Enrollment} + \text{Vested Students}]}{[\text{FISH School Capacity} + \text{Additional Capacity}]}$$

Five-year School Facilities Work Program or Five-Year School Work Program means the document created by the School District to assist it as it plans, proposes, and prioritizes its current and five-year capital outlay needs. (see Section 1013.35, F.S.)

FISH (Florida Inventory of School Houses) means the inventory numbering system used by the Florida Department of Education for parcels, buildings, and rooms in public educational facilities.

Level-of-Service Standard for the purposes of school concurrency means the minimum service level that will be provided by public school facilities in the County. The LOS Standard is applied consistently district-wide and is established within both the Public Schools Interlocal Agreement and the Public School Facilities Element.

District-wide Level of Service Standard is calculated by adding Student enrollment plus vested students and dividing the total by Florida Inventory of School Houses (FISH) School Capacity plus additional capacity does not exceed 100 percent. This level-of-service standard shall apply to each type of public school facility and shall not exceed 100%.

Public School Facilities Element (PSFE) means the element required to be adopted in local government comprehensive plans by Section 163.3177 (12), F.S., for those communities that are required to implement a school concurrency program.

Public Schools Interlocal Agreement means the Interlocal Agreement filed with the Pinellas County Board Clerk on April 24, 2007 between the Pinellas County School Board, Pinellas County, and the twelve municipalities within Pinellas County that are required to implement school concurrency per Section 163.3177(1), F.S., or as it may subsequently be amended.

Remodeling as defined in the Florida Building Code, Chapter 4, Section 423.5., means the changing of existing facilities by rearrangement of space and/or change of use.

Renovations as defined in the Florida Building Code, Chapter 4, Section 423.5., means the rejuvenating or upgrading of existing facilities by installation or replacement of materials and equipment. The use and occupancy of the spaces remain the same.

Residential Approval means a residential site plan or a final residential subdivision approval.

School Board means the elected body presiding over the schools of Pinellas County, responsible for exercising all of the powers and duties associated with the District schools, in accordance with Chapter 1001 of the Florida Statutes.

School Capacity and Level of Service Report means the report prepared annually by the School District to calculate the existing level of service and the Available Capacity within each Concurrency Service Area.

School Concurrency Approval means the finding issued by the city that there is available capacity for all types of schools to serve a Residential Approval.

School District means the unit for the control, organization, and administration of schools in Pinellas County. The responsibility for the actual operation and administration of all schools needed within the district in conformity with rules and minimum standards prescribed by the state, and also the responsibility for the provision of any desirable and practicable opportunities authorized by law beyond those required by the state, are delegated by law to the school officials of the Pinellas City School District.

Section 29.13 Specific Regulations and Procedures for School Concurrency

(a) *Purpose and Intent*

The purpose of school concurrency is to assure that there is available capacity for the anticipated students in each Concurrency Service Area where residential units are created at the time those students need to go to school.

(b) Application for School Concurrency Review.

The development tracking system is accessed by the city when an application for school concurrency review ('Application') is submitted to the city. A city representative shall then ascertain the completeness of the documentation, in a timely manner, to ensure that the required information is sufficient to accept the Application for school concurrency review.

(c) Review of Application.

(1) When the Application has been accepted, it shall be processed and reviewed in accordance with procedures adopted in Section 29.13(d).

(2) If the Application is not reviewable as submitted, then the Application shall be returned to the property owner or representative clearly stating what the deficiencies are and why the Application cannot be further reviewed.

(d) School Concurrency Applied.

(1) When the review process for an Application is initiated, the city shall consider the most current adjusted information on Available Capacity provided by the county. If this information reveals that there is Available Capacity within each of the Concurrency Service Areas where the proposed Residential Approval would be located, then the city shall proceed under Section (2)a-d below. If the information reveals that there is not Available Capacity within a Concurrency Service Area where the proposed Residential Approval would be located, then a School Concurrency Application shall be submitted by the city to the School District and the county for all Residential Approval, regardless of size, and shall proceed under Section (2) e. below.

(2) Development Review Process

a. The city is authorized to issue a School Concurrency Approval for a residential site plan or final subdivision approval of less than 25 dwelling units without submitting a School Concurrency Application to the School District.

b. A School Concurrency Application for residential site plans or residential final subdivisions of 25 dwelling units or greater shall be submitted by the city to the School District and the county on a form provided by the School District.

c. Within 25 days of receipt from the city of a completed School Concurrency Application, the School District will review the Application and shall render a School Concurrency Determination stating whether there is Available Capacity for all types of schools to accommodate the estimated number of students that would be generated by the proposed Residential Approval and maintain the adopted Level-of-Service Standard. The School District may request assistance from the county in reviewing Applications.

d. If the School District determines that there is Available Capacity within the Concurrency Service Areas where the proposed Residential Approval would be located, then an adequate Level of Service would be provided within the Concurrency Service Areas and the Residential Approval shall be issued a School Concurrency Approval by the city.

e. If the School District determines that there is not Available Capacity within an affected Concurrency Service Area and the adopted Level-of-Service Standard would be exceeded, then the School District shall consider whether there is Available Capacity in the contiguous Concurrency Service Area(s).

1. If the School District determines that, in the aggregate, there is Available Capacity in the contiguous Concurrency Service Area(s) to accommodate the estimated number of students from the proposed Residential Approval, then an adequate Level of Service would be provided and the Residential Approval shall be issued a School Concurrency Approval by the city.

2. If the School District determines that, in the aggregate, there is not Available Capacity in the contiguous Concurrency Service Area(s) to accommodate the estimated number of students from the proposed Residential Approval, then an adequate Level of Service would not be provided for that type of school and the Residential Approval shall not be issued a School Concurrency Approval by the city.

3. If the School District determines that, in the aggregate there is not Available Capacity, then within 25 days after receiving the completed School Concurrency Application from the city, the School District shall identify the required proportionate share mitigation and recommend acceptable form(s) of mitigation in writing to the city and the applicant.

4. When the School District determines that there is not Adequate Capacity for a Residential Approval, then the city may only issue a School Concurrency Approval after the execution of a legally

binding development mitigation agreement between the applicant, the city, and the School Board.

(3) The city shall provide documentation of all School Concurrency Approvals to the county within thirty days of issuance.

(4) Continued Validity of a School Concurrency Approval:

A School Concurrency Approval shall be valid for purposes of the issuance of development orders or permits for 12 months from the date of issuance by the city. If the developer has not begun construction within 12 months of issuance of the development order, then the Approval shall expire and the developer shall re-apply for School Concurrency Approval.

(d) Mitigation.

(1) If capacity is not available, the applicant may choose to satisfy the public school facilities concurrency requirements of the city by making a proportionate fair share contribution, pursuant to the following requirements:

a. Acceptable forms of mitigation may include, without limitation, the following:

1. Contribution of land;
2. The construction of public school facility;
3. Expansion of an existing public school facility;
4. Payment for land acquisition or the expansion or construction of a public school facility;
5. The creation of mitigation banking based on the construction of a public school facility in exchange for the right to sell capacity credits;
6. Charter schools will be recognized as public school facilities and will serve to expand the capacity of the School District. Charter schools are a potential option for mitigating the impact that new Residential Approvals may have on public school facilities.

b. The following standards shall apply to any mitigation required by the School District:

1. Proposed mitigation must be directed toward a permanent school capacity improvement identified in the Five-Year Work Program, with the exception of charter schools, that satisfies the estimated demands created by the proposed Residential Approval;
2. Relocatable classrooms will not be accepted as mitigation;
3. Mitigation shall be proportionate to the demand for public school facilities estimated to be created by the proposed Residential Approval;

c. The Proportionate Share Mitigation amount shall be calculated using the following formula for each school level: Multiply the number of additional new student stations required for mitigation of the estimated demand for public school facilities created by the proposed Residential Approval by the average cost per student station using the actual construction cost being experienced by the School District for student stations at the time when proportionate share mitigation is accepted plus the inclusion of land costs, if any.

d. Development Mitigation Agreement

1. The development mitigation agreement shall provide for the required mitigation to mitigate the impacts of the proposed development on public school facilities.

2. Upon notification by the School District that a proposed development project is subject to public school facilities concurrency regulations and is eligible to participate in the proportionate share program, the applicant and the city shall be notified within 21 days in writing of such during the site plan review process.

3. In order to move forward in the development process, if the applicant chooses to exercise this concurrency option, a meeting shall be held to discuss eligibility, Application submittal requirements, potential mitigation options, and related issues. The applicant and the School District shall attempt to negotiate a development mitigation agreement which shall provide for the required mitigation to mitigate the impacts of the proposed development on public school facilities. The city shall be a party to this agreement.

4. After a mitigation project is identified and agreed upon by the applicant and the School District, a development mitigation agreement will be prepared by the applicant with direction from the School District. The final agreement, after approval by the School Board, will become a part of the final site plan submittal. Final approval of the site plan and agreement rests with the city manager or his/her designee. If the applicant and the School Board are unable to agree on an acceptable form of mitigation, the conflict resolution provision provided in Section 14 of the Public Schools Interlocal Agreement may be utilized.

5. The development mitigation agreement shall include the applicant's commitment to continue to renew the development mitigation agreement until the mitigation is completed as determined by the School Board or as determined through the conflict resolution procedures provided for in Section 14 of the Public Schools Interlocal Agreement, if applicable.

6. Upon execution of a development mitigation agreement, the applicant shall receive public school facilities concurrency approval or functional equivalent.

7. If the applicant chooses to not continue with their project, the applicant may submit a letter to the School District to withdraw from the development mitigation agreement at any time prior to the execution of the agreement.

8. A development mitigation agreement can be amended or cancelled by mutual consent of the parties to the agreement or by their successors in interest.

e. Cross Jurisdictional Impacts

1. In the interest of intergovernmental coordination and to reflect the shared responsibilities for managing development and concurrency, the city will notify the other local government in writing if the proposed mitigation is located in a different jurisdiction, and allow the opportunity for the other local government to comment on mitigation proposals.

(e) Vesting

For the purposes of meeting the Level-of-Service Standard, Residential Approvals, development orders, and permits approved for any property prior to the effective date of this ordinance shall be vested and shall not require a School Concurrency Approval.

(f) Credits

(1) After the Effective Date, any property with existing dwelling units that are demolished or destroyed shall receive a credit for the estimated number of students generated from existing dwelling units. Credits may not be transferred to another property but may be used on abutting property if part of the same Residential Approval. The applicant will be required to provide proof of such existing uses in a form acceptable to the city manager or his/her designee.

(2) The application of credits for public school capacity attributable to the number of student seats generated by a previous and existing on-site residential use may be used for a new Residential Approval, in the place of the capacity which would be generated by the new Residential Approval, in perpetuity from the Effective Date.

(g) Modifications to Site Plans

(1) Minor modifications may be made to an already submitted site plan. A minor modification will not result in any extension to the validity time frame associated with a School Concurrency Approval issued for the initial site plan, and will not justify the issuance of a new School Concurrency Approval. Modifications in demand on Available Capacity will be reflected in the development tracking system. If the City Manager determines that such modifications do not constitute a minor change from the original site plan, as described in Section 5.1 of the Land Development Code, submittal of a new site plan will be required. In such instances, the School Concurrency Approval issued for the original site plan

submittal will no longer be valid, and the new site plan will be subject to the school concurrency review.

(h) Review and Appeals

(1) The review and appeal of a School Concurrency Determination issued by the city will be carried out in accordance with Section 3.14 of the LDC.

(i) School Capacity and Level of Service Report:

(1) Each year, the School District shall prepare a School Capacity and Level of Service Report (the "Report") to calculate the Existing Level of Service and the Available Capacity within each Concurrency Service Area.

(2) Available Capacity shall include the school facilities that will be in place or under construction within three years, according to the Five-Year Work Program and shall be calculated based on the following formula:

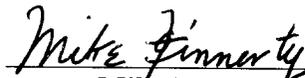
$$\text{Available Capacity} = \frac{[\text{FISH School Capacity} + \text{Additional Capacity}] - [\text{Enrollment} + \text{Vested Students}]}{1}$$

(3) The county shall be notified by the local governments when new dwelling units have received certificates of occupancy and when the School Concurrency Approval for a Residential Approval has expired. The county shall provide this information to the School District for inclusion in the annual Report.

Section 2. All ordinances, or parts of ordinances, in conflict herewith are hereby repealed to the extent of any conflict with the Ordinance.

Section 3. If any portion of part of this Ordinance is declared invalid by a court of competent jurisdiction, the valid remainder hereof shall remain in full force and effect.

Section 4. This Ordinance shall become effective immediate upon adoption.



Mike Finnerty, Mayor

FIRST READING:

4-14-09

PUBLISHED:

4-18-09

SECOND READING:

4-28-09

PUBLIC HEARING:

4-28-09

I, Theresa McMaster, City Clerk of the City of St. Pete Beach, Florida, do hereby certify that the foregoing Ordinance was duly adopted in accordance with the provisions of applicable law this 28th day of April, 2009.

Theresa McMaster
CITY CLERK