

AN ORDINANCE BY THE PASCO COUNTY BOARD OF COUNTY COMMISSIONERS ESTABLISHING A SCHOOL CONCURRENCY MANAGEMENT SYSTEM; AMENDING SECTION 402 OF THE LAND DEVELOPMENT CODE RELATING TO THE CONCURRENCY MANAGEMENT SYSTEM; PROVIDING FOR SCHOOL CONCURRENCY APPLICATION REQUIREMENTS; PROVIDING FOR AMENDED PROCEDURES, STANDARDS AND EXPIRATION PERIODS FOR SCHOOL CONCURRENCY LEVEL OF SERVICE CAPACITY DETERMINATIONS; PROVIDING FOR PROPORTIONATE SHARE MITIGATION; PROVIDING FOR EXEMPTIONS; PROVIDING FOR REPEALER, SEVERABILITY, INCLUSION IN CODE, APPLICABILITY, EFFECTIVE DATE AND RELATIONSHIP TO COMPREHENSIVE PLAN.

WHEREAS, in 2003 the Pasco Board of County Commissioners (“Board”), the District School Board of Pasco County (“School District”), and the Municipalities of Dade City, New Port Richey, Port Richey, San Antonio, the Town of St. Leo and Zephyrhills (“Municipalities”) entered into an Interlocal Agreement for the coordination of planning activities (the “2003 Agreement”) as required by Sections 163.31777 and 1013.33, Florida Statutes; and

WHEREAS, in 2005, pursuant to Chapter 2005-290, Laws of Florida, the Florida Legislature made substantial amendments to Florida’s growth management legislation, which included a requirement for local governments to create and implement school concurrency management programs; and

WHEREAS, Chapter 2005-290, Laws of Florida also required the Board, the School District and the Municipalities to amend the 2003 Agreement to include provisions for the creation and implementation of school concurrency program through amendments to the local governments’ comprehensive plans and land development codes; and

WHEREAS, on February 27, 2008 the Board adopted amendments to the Pasco County Comprehensive Plan (the “Amendments”) and executed the Restated and Amended Interlocal Agreement for the coordination of planning activities to include school concurrency (the “2008 Agreement”); and

WHEREAS, the Amendments included Public School Facilities Element Policy 1.1.1. establishing a level of service standards for elementary, middle, high schools and alternative education facilities; and

WHEREAS, the Amendments included Public School Facilities Element Policy 1.1.2. establishing a long term concurrency management system for elementary school concurrency service area 2; and

WHEREAS, the Amendments included Public School Facilities Element Policy 1.1.3. establishing school concurrency service areas; and

WHEREAS, the Amendments included Public School Facilities Element Objective 1.2. and supporting policies requiring the adoption of school concurrency management regulations consistent with the comprehensive plan and state law, allowing for proportionate share contributions to mitigate impacts where school capacity at the adopted levels of service is not maintained; and

WHEREAS, the Board desires to adopt amended land development regulations relating to school concurrency management consistent with Chapter 2005-290, Laws of Florida, the Amendments, and the 2008 Agreement.

NOW, THEREFORE, be it ordained by the Board of County Commissioners of Pasco County, Florida as follows:

The Board of County Commissioners hereby adopts the following amendments to the Pasco County Land Development Code which shall be collectively referred to as the "Pasco County School Concurrency Management Ordinance".

SECTION 1. The Board of County Commissioners sitting as the Local Planning Agency has reviewed this ordinance and has determined that it is consistent with the Comprehensive Plan, including the Public School Facilities Element.

SECTION 2. Article 402 is hereby amended as follows.

402. CONCURRENCY MANAGEMENT SYSTEM

402.1 Generally—Certificates of Capacity

Concurrency facilities include arterial and collector transportation facilities, mass transit, drainage, potable water, water supply, sanitary sewer, solid waste, and parks and recreation, and school facilities. The Board of County Commissioners has established level of service standards for such facilities in the Pasco County Comprehensive Plan. The purpose of these regulations is to allow the County, or the School District as to school concurrency, to determine whether or not there is sufficient capacity of concurrency facilities to meet the Comprehensive Plan level of service standards concurrent with proposed development and ensure consistency with Pasco County's Capital Improvements Program and Capital Improvements Element, and/or the School District's Facilities Work Program for school concurrency. The mechanism to make this capacity determination shall be the issuance of a Certificate of Capacity. A Certificate of Capacity as used in these regulations is a determination that all concurrency review requirements are satisfied for the proposed development and that a specified quantity of concurrency facilities capacity is reserved for the proposed development for the duration of the Certificate of Capacity, subject to the requirements of these regulations, and any conditions imposed with the Certificate of Capacity. A Certificate of Capacity is issued if all adopted level

of service standards can be maintained during, and following, the proposed development, or the impacts of the proposed development are mitigated consistent with the Comprehensive Plan and these regulations. Any Certificate of Capacity may be issued with conditions to ensure the adopted level of service standards can be maintained during, and following, the proposed development, or to ensure that the impacts of the proposed development are mitigated consistent with the Comprehensive Plan and these regulations. Certificates of Capacity shall be issued by the County, on a form designed by the County's Development Review Director, and relating to a specific development project, or project phase, on a specific parcel of real property. Certificates of Capacity shall run with the parcel(s) of real property upon which they are issued, and the rights and obligations set forth therein shall be binding on subsequent property owners of such real property. Certificates of Capacity may not be transferred to other parcels or property.

SECTION 3. Section 402.2 is hereby amended as follows.

402.2 Certificate of Capacity Information

Each Certificate of Capacity shall include, at a minimum, a statement as to specific land uses, the number of units, and the floor area or square footage for all nonresidential structures, or other areas that will be used for display or storage of goods or dedicated to performance of services, as applicable or relevant to the estimation of impacts for purposes of meeting the intent of these regulations. For phased projects, or projects with interim uses that utilize concurrency public facilities, this information shall be provided for each phase or interim phase. The Certificate of Capacity shall also include, at a minimum, the location of the project, including Parcel Identification Numbers. The County Administrator, or his designee, may establish application forms requiring additional information or request supplemental information for specific concurrency public facilities. In addition, information supplied by the applicant in any related development approval application(s) may be used for the Certificate of Capacity determination. For school concurrency, each applicant not exempt from school concurrency shall submit a School Impact Analysis to the School District and comply with the School District's Concurrency Implementation Procedures Manual adopted by the School District pursuant to Chapter 120, Florida Statutes, and found at <http://plan.pasco.k12.fl.us/> (the "School Concurrency Implementation Procedures Manual").

SECTION 4. Section 402.3 is hereby amended as follows.

402.3 Capacity Determination Procedures

A. Initial Certificates of Capacity

For arterial and collector transportation facilities, mass transit, sanitary sewer, potable water, water supply, solid waste, and parks and recreation, and school facilities, an Initial Certificate of Capacity shall be required prior to the issuance or approval of one (1) of the following development orders for any project or project phase (the "Initial Certificate of Capacity Development Orders"):

1. Development of Regional Impact or Florida Quality Development pursuant to Chapter 380, Florida Statutes,
2. Rezoning,
3. Preliminary Site Plan,
4. Preliminary Plan,
5. Non-residential Subdivision,
6. Residential Subdivision Into More than One Dwelling Unit Per Lot,

Initial Certificates of Capacity shall be valid, and reserve capacity, for a period of six (6) years from the date of issuance, except for arterial and collector transportation facilities and school facilities. The capacity reservation for arterial and collector transportation facilities shall depend on whether the Initial Certificate of Capacity requires a traffic impact study in accordance with these regulations and the TIS Guidelines, or transportation analysis in accordance with Chapter 380 Florida Statutes, to determine capacity for arterial and collector transportation facilities ("Traffic Study"). Initial Certificates of Capacity requiring a Traffic Study shall be valid, and reserve capacity, from the date of issuance through the build-out date of the Traffic Study, which shall be no less than two (2) years. Unless otherwise approved by the Development Review Committee or the Board of County Commissioners the build-out date of the Traffic Study shall be no greater than fifteen (15) years from the date of the initial Traffic Study methodology submittal for Developments of Regional Impact and Florida Quality Developments, and no greater than ten (10) years from the date of the initial Traffic Study methodology submittal for all other developments requiring a Traffic Study. Initial Certificates of Capacity that do not require a Traffic Study in accordance with these regulations shall be valid, and reserve capacity, for a period of two (2) years from the date of issuance; however any Initial Certificate of Capacity applicant that is not required to complete a Traffic Study may voluntarily complete a Traffic Study pursuant to these regulations and the TIS Guidelines, and be subject to the capacity reservation periods for projects required to complete a Traffic Study. For school facilities, Initial Certificates of Capacity shall be valid, and reserve capacity, for a period of three (3) years from the date of issuance of the Concurrency Capacity Letter, unless a longer time period is approved in accordance with the requirements of the School Concurrency Implementation

Procedures Manual. The foregoing expiration periods for Initial Certificates of Capacity are subject to the additional review and revocation requirements set forth below. Initial Certificates of Capacity that expire may be renewed only upon compliance with all applicable application and review requirements set forth in these regulations. Initial Certificate of Capacity Development Orders shall not require a new Initial Certificate of Capacity if the project or project phase has a valid and unexpired Initial Certificate of Capacity at the time of issuance or approval of the Initial Certificate of Capacity Development Order.

B. Final Certificates of Capacity

For drainage, arterial and collector transportation facilities, mass transit, sanitary sewer, potable water, water supply, solid waste, ~~and parks and recreation,~~ and school facilities, a Final Certificate of Capacity shall be required prior to the issuance or approval of one (1) of the following development orders for any project or project phase ("Final Certificate of Capacity Development Orders"):

1. Building permit issuance for non-residential development, residential development not requiring subdivision plat, or residential subdivisions into more than one dwelling unit per lot.
2. Final plat approval for residential subdivisions into one dwelling unit per lot.
3. For public schools site plan approval to the extent required by the Interlocal agreement between the County and the School Board.

Any project or project phase with a valid and unexpired Initial Certificate of Capacity at the time of issuance or approval of the Final Certificate of Capacity Development Order shall be entitled to issuance of a Final Certificate of Capacity without further analysis or review for the portion of the project with the valid and unexpired Initial Certificate of Capacity, subject to the additional review and revocation requirements set forth below; provided, however, issuance of a Final Certificate of Capacity shall be subject to additional review for drainage concurrency regardless of whether an Initial Certificate of Capacity has been issued. Projects, or project phases, without a valid and unexpired Initial Certificate of Capacity shall require additional review in accordance with these regulations. Final Certificates of Capacity, once issued, shall not expire, and shall constitute a permanent reservation of capacity, subject to the additional review and revocation requirements set forth below.

C. Additional Review and Revocation Requirements

Any project or project phase that changes the number of units, the type of land use, the floor area or square footage for all nonresidential structures, or other areas that will be used for display or storage of goods or dedicated to performance of services, after an Initial or Final

Certificate of Capacity has been issued, shall be subject to additional review in accordance with these regulations if the change results in an increased demand for, or impact on, any concurrency facility. Any project or project phase requiring a Traffic Study shall be subject to additional Traffic Study review in accordance with these regulations if, after the issuance of the Initial or Final Certificate of Capacity, the build-out date, land-use assumptions, or on-site circulation or access provisions in the Traffic Study for the project or project phase have been changed to the extent that they result in an increased impact on arterial and collector transportation facilities. However, in the event a project or project phase becomes subject to additional review after it has received a Final Certificate of Capacity, such project or project phase shall be subject to additional review only for that portion of the project that has resulted in an increased demand for, or impact on, the concurrency facility, and such project shall only be subject to concurrency review for those facilities with increased impacts.

An Initial or Final Certificate of Capacity may be revoked if the County Administrator or his designee determines that (a) the application information used as a basis for the issuance of the Certificate of Capacity was inaccurate, and such inaccuracy was material to the capacity determination, or (b) a condition of the Initial or Final Certificate of Capacity has not been fulfilled by the time period required in such condition, or in the absence of a time period, by the issuance of the first certificate of occupancy for the project or project phase that received the Certificate of Capacity. However, before the County Administrator or his designee revokes a Certificate of Capacity, the County shall provide thirty (30) days prior written notice of the planned revocation to all property owners that would be subject to a new Certificate of Capacity upon such revocation. During such thirty (30) day period, any property owner notified of the planned revocation may either (a) cure the inaccuracy or noncompliance, or (b) appeal the planned revocation pursuant to Section 402.9. In the event of an appeal of the planned revocation, the revocation shall be stayed until such time that the Board of County Commissioners determines that the Certificate of Capacity shall be revoked. As to school facilities, the School District may formulate, adopt and enforce its own rules of revocation of a Concurrency Capacity Letter in the School Concurrency Implementation Procedures Manual. The School District's revocation of a Concurrency Capacity Letter shall be a basis for the County to revoke an Initial or Final Certificate of Capacity.

An applicant may voluntarily relinquish any Initial or Final Certificate of Capacity that has been issued to the applicant, in which case the capacity reservation for the project, or project phase, shall terminate, and such project or project phase shall be subject to all procedures and review standards set forth in these regulations. However, an applicant may not relinquish any

condition or mitigation required by an Initial or Final Certificate of Capacity if such condition or mitigation is guaranteed by a security instrument, such as a bond or letter of credit, and voluntary relinquishment by the applicant shall not entitle the applicant to a refund or credit for any payment or mitigation provided to the County as a condition of the relinquished Initial or Final Certificate of Capacity. . As to school facilities, the School District may formulate, adopt and enforce its own rules pertaining to relinquishment of a Concurrency Capacity Letter in the School Concurrency Implementation Procedures Manual.

D. Effect of Certificate of Capacity Subject to Additional Review, Revocation or Expiration

The County shall withhold issuance of new development orders, permits or certificate of occupancy for any project or project phase: (1) with an expired or revoked Initial or Final Certificate of Capacity, (2) with an Initial or Final Certificate of Capacity subject to additional review in accordance with these regulations, or (3) that did not obtain an Initial or Final Certificate of Capacity where required by these regulations.

Initial and Final Certificates of Capacity may be subject to additional review or revocation for all concurrency facilities, or for specific concurrency facilities. In addition, Initial Certificates of Capacity may have a different expiration period for arterial and collector transportation facilities and/or school facilities than other concurrency facilities. If an Initial or Final Certificate of Capacity is subject to additional review, revocation or expiration only for a specific concurrency facility, or specific concurrency facilities, it shall not affect the validity of the Initial or Final Certificate of Capacity for purposes of the other concurrency facilities not subject to additional review, revocation or expiration.

SECTION 5. Section 402.4 is hereby amended and a new subsection 402.4.c. created.

402.4 Review Standards—Potable Water, Sewer, Solid Waste, Water Supply, Mass Transit, Drainage, and Parks and Recreation, and School Facilities

C. As to school concurrency, Concurrency Capacity Letters, Preliminary Concurrency Deficiency Letters and Final Concurrency Deficiency Letters shall be issued by the School District pursuant to the School Concurrency Implementation Procedures Manual. The County shall not issue Initial and Final Certificates of Capacity until the School District issues its Concurrency Capacity Letter, unless the project is exempt from school concurrency pursuant to the provisions of this Code. For school facilities, the necessary facilities to serve the residential development and maintain the adopted levels of service shall be in place or under actual construction no later than 3 years after the issuance of a Concurrency Capacity Letter.

1. In the event that there is not capacity available at the adopted levels of service to serve projected student populations of a proposed development, the developer may elect to

negotiate with the School District and County on proportionate share mitigation options. The methodology used to calculate School Concurrency Proportionate Share Mitigation shall be as follows:

$$\text{Proportionate Share} = \frac{(\text{Development students}^a - \text{Available FISH Permanent Capacity}^b) \times \text{Total Cost}^c \text{ per student station}}{}$$

Where:

^aDevelopment students = Students that will be generated by the proposed development that are assigned to that particular School Concurrency Service Area.

^bAvailable FISH Capacity = Capacity available or if no FISH Capacity is available zero.

^cTotal Cost = the cost per Permanent Student Station as determined using the actual construction cost per the School Impact Fee Study as implemented by the School Impact Fee Ordinance, as amended, at the time when Proportionate Share Mitigation is accepted.

2. Proportionate mitigation options include, but are not limited to, the following:

- a. Contribution of land for an entire school site meeting the applicable School Siting Standards or adjacent to an existing school site; or
- b. Provision of additional Permanent Student Stations through the donation of permanent buildings for use as a primary or alternative public school facility, provided that such building meet SREF standards and provided that such student stations are not relocatable or other temporary classrooms; or
- c. Provision of additional Permanent Student Stations through the renovation of existing buildings for use as public school facilities; or
- d. Construction of Permanent Student Stations or Core Facilities; or
- e. Construction of a school in advance of the time set forth in the District Facilities Work Plan; or
- f. Creation of mitigation banking based on the construction of a public school facility in exchange for the right to sell capacity created; or
- g. The contribution of funds or other financial or financing initiatives acceptable to the School Board to ensure that the financial feasibility of the DFWP can be maintained by the implementation of the mitigation options; or
- h. The contribution of funds or other financial or financing initiatives acceptable to the School Board to ensure that infrastructure improvements to support a public school facility that are the obligation of the School Board will be in place when necessary.

3. The developer, School District and the Board shall all be parties to Proportionate Share Mitigation Agreement. Final Certificates of Capacity shall not be issued in the interim.

4. Proportionate share payments or in-lieu of payment improvements or contributions shall be applied as a credit against impact fees in accordance with the credit provisions of the school impact fee ordinance. The portion of any proportionate share payment that is equivalent to the school impact fees due shall be considered a payment of school impact fees, and shall be budgeted and expended in accordance with the school impact fee ordinance. Any proportionate share payments in excess of the school impact fees due shall be considered a concurrency proportionate share payment, and shall be budgeted and expended in

accordance with the School district's capital improvements schedule of the District Facilities Work Program.

5. De minimis determinations shall be made by the School District. Projects that consist of less than the number of dwelling units required to generate one student are de minimis. De minimis projects are those projects and aggregated projects, as defined in the School District's School Concurrency Implementation Procedures Manual, that do not generate one or more student(s).

SECTION 6. Section 402.6 is hereby amended as follows.

402.6. Exemptions

A. Subject to Section 402.6.D., the following projects are permanently exempt from obtaining a Certificate of Capacity pursuant to these regulations:

- (1) The portion of any project that has received final subdivision plat approval as a residential subdivision into one dwelling unit per lot as of December 1, 2006.
- (2) Any building or structure that has received a Certificate of Occupancy as of December 1, 2006.
- (3) Any public school with an approved site plan or approved Comprehensive Plan consistency review as of December 1, 2006.
- (4) The portion of any project or area subject to a Board of County Commissioner approved public facility infrastructure financing plan and special district to finance such infrastructure; provided, however, the scope of the concurrency exemption for such project(s) or area shall be defined in the Board of County Commissioner approval.
- (5) Public transit facilities, as defined in Section 163.3180(4)(b), Florida Statutes.
- (6) For school facilities, the portion of any project that has received final subdivision plat approval as a residential subdivision into one dwelling unit per lot as of the effective date of the Pasco County School Concurrency Management Ordinance.
- (7) For school facilities, any residential dwelling unit that has received a Certificate of Occupancy as of the effective date of the Pasco County School Concurrency Management Ordinance.
- (8) For school facilities, any age restricted community intended to provide housing for persons who are 55 years of age or older that prohibits the permanent residency of individuals under the age of 22 by deed restrictions meeting the requirements of the School Impact Fee Ordinance. Said deed

restrictions are required to be executed and recorded prior to granting this exemption.

B. Subject to Section 402.6.D., the following projects are exempt from obtaining a Certificate of Capacity pursuant to these regulations, but such exemption is subject to expiration:

- (1) The portion of any project in possession of a valid, unexpired, Certificate of Level of Service Compliance; however, such exemption shall expire upon the expiration of the Certificate of Level of Service Compliance, or upon default of any conditions of the Certificate of Level of Service Compliance, unless such project, or portions of such project, remains exempt pursuant to another exemption provision.
- (2) The portion of nonresidential projects, residential projects not requiring a subdivision plat, or residential subdivisions into more than one dwelling unit per lot that have received a building permit as of December 1, 2006; however, such exemption shall expire upon expiration of the building permit if the building subject to the building permit has not received at least one inspection as of December 1, 2006, unless such project, or portions of such project, remains exempt pursuant to another exemption provision.
- (3) Development of Regional Impact Development Orders approved prior to April 9, 1991; however, such exemption shall expire for any phase of the development order on the date such phase is subject to additional traffic study or concurrency review, or for the entire development order upon expiration of the development order, or upon any material default of the mitigation conditions of such development order or a related development agreement, unless such project, or portions of such project, remains exempt pursuant to another exemption provision.
- (4) For school facilities, the portion of residential projects not requiring a subdivision plat, or residential subdivisions into more than one dwelling unit per lot that have received a building permit as of the effective date of the Pasco County School Concurrency Management Ordinance; however, such exemption shall expire upon expiration of the building permit if the building subject to the building permit has not received at least one inspection as of the effective date of said Ordinance, unless

such project, or portions of such project, remains exempt pursuant to another exemption provision.

(5) For school facilities, Development of Regional Impact Development Orders applied for prior to May 1, 2005; however, such exemption shall expire for any phase of the development order upon the expiration of such phase, or three years after the effective date of this Ordinance, whichever occurs first, or upon any material default of the school mitigation conditions of such development order or a related development agreement, unless such project, or portions of such project, remains exempt pursuant to another exemption provision.

(6) For school facilities, the portion of any project that is the subject of a binding and enforceable development agreement or other agreement that specifically exempts such project from school concurrency requirements; however, such exemption shall expire upon expiration of the development agreement, or upon any material default of the school mitigation conditions of such development agreement or agreement, unless such project, or portions of such project, remains exempt pursuant to another exemption provision.

C. Subject to Section 402.6.D., the following projects are exempt from the transportation concurrency and Traffic Study requirements of these regulations only, but such exemption is subject to expiration:

(1) Developments of Regional Impact that have filed a complete Application for Development Approval prior to December 1, 2006; however such exemption shall expire upon withdrawal, denial, or expiration of the Application for Development Approval. If such Development of Regional Impact has been approved, or is approved, through a development order, such exemption shall expire for any phase of the development order on the date such phase is subject to additional traffic study or concurrency review, or for the entire development order upon expiration of the development order, or upon any material default of the transportation mitigation conditions of the development order or a related development agreement, unless such project, or portions of such project, remains exempt pursuant to another exemption provision.

- (2) The portion of any project that completed a Traffic Study after June 4, 1999 in connection with an Initial or Final Certificate of Capacity Development Order, and such Traffic Study demonstrated compliance with the level of service standards in effect at the time the Traffic Study was completed, or the standards of the TIS Guidelines, as applicable, and such portion of the project is not in default of any transportation mitigation requirements resulting from such Traffic Study; however, such exemption shall expire upon expiration of the build-out date in the Traffic Study, or in the event no build-out date was established, ten (10) years after the Traffic Study was submitted, or upon any material default of the transportation mitigation conditions required of such project, unless such project, or portions of such project, remains exempt pursuant to another exemption provision.
- (3) The portion of any project with an approved methodology statement pursuant to the TIS Guidelines as of December 1, 2006; however, such exemption shall expire upon withdrawal, expiration or denial of the methodology statement or Traffic Study, or upon expiration of the build-out date in the Traffic Study, or upon any material default of the transportation mitigation conditions required of such project, unless such project, or portions of such project remains exempt pursuant to another exemption provision.
- (4) The portion of any project that is the subject of a binding and enforceable development agreement that specifically exempts such project from transportation concurrency requirements; however, such exemption shall expire upon expiration of the development agreement, or upon any material default of the transportation mitigation conditions of such development agreement, unless such project, or portions of such project, remains exempt pursuant to another exemption provision.

D. The foregoing exemptions shall not apply if a material change is made to the exempt portion of any project, building or structure. The term "material change" shall mean a change that results in an increased demand for, or impact on, the concurrency facility, or facilities, for which the project is exempt. For transportation facilities, a "material change" is a change in the build-out date, land-use assumptions, or on-site circulation or access provisions for the project or project phase that results in an

increased impact on arterial and collector transportation facilities. However, in the event a project exempt pursuant to 402.6.A. or 402.6.B.(2) loses exemption status solely as a result of a material change, the Certificate of Capacity, and the applicable review standards and de minimis thresholds, shall apply only to that portion of the project that has resulted in an increased demand for, or impact on, the concurrency facility, and such project shall only be subject to concurrency review for those facilities with increased impacts. All other exempt projects that make a material change or that lose exemption status for the reasons set forth in the exemptions, shall become subject to all applicable requirements of these regulations.

E. Before the County Administrator or his designee determines that any exemption shall expire based on a material default of a condition, agreement or development order, the County shall provide thirty (30) days prior written notice of the planned expiration to all property owners that would be subject to a new Certificate of Capacity upon such expiration. During such thirty (30) day period, any property owner notified of the planned expiration may either (a) cure the default, or (b) appeal the planned expiration pursuant to Section 402.9. In the event of an appeal of the planned expiration, the expiration shall be stayed until such time that the Board of County Commissioners determines that the Certificate of Capacity shall expire.

SECTION 7. Section 402.7 is hereby amended as follows.

402.7 Limited exemptions

A. The board or the county administrator, or his designee, may administratively exempt any of the following projects ("limited exemption projects") from any provision of these regulations that is more stringent than minimum state law requirements:

- (1) Public schools governed by the Public School Facilities Element of the adopted Comprehensive Plan~~interlocal agreement for coordination of planning activities~~, as amended, and community colleges and universities governed by F.S. ch. 1013;

SECTION 8. Section 402.8 is hereby amended as follows.

402.8 Variances

Any provision of this section that is not based on a minimum standard of state law, or the comprehensive plan, may be varied pursuant to the requirements of section 316 of the Land Development Code. Proposed variances to school facilities concurrency requirements shall also be submitted to the School District for review and recommendation prior to being heard by the Development Review Committee. Disagreements between the School District and the

County regarding the granting of a variance for school facilities concurrency requirements shall be subject to Chapter 164, Florida Statutes, and shall be initiated by the School District within thirty (30) days of the written decision of the Development Review Committee. If the School District has timely initiated the Chapter 164 process, the variance shall not be effective until the Chapter 164 process is complete, and any appeals exhausted.

SECTION 9. Section 402.9 is hereby amended as follows.

402.9 Appeals and Vested Rights.

Any determination made pursuant to Article 402 may be appealed in accordance with Article 317 of the Land Development Code, including, but not limited, Certificate of Capacity Determinations, de minimis determinations for transportation concurrency, determination related to proportionate share, and determinations related to exemptions and limited exemptions. Notwithstanding the foregoing, appeals of technical issues addressed in the TIS Guidelines shall be addressed in accordance with the appeal procedures of the TIS Guidelines. Further, notwithstanding the foregoing, de minimis determinations for school concurrency, and School Concurrency Capacity, Preliminary and Final Concurrency Deficiency Letters may be appealed to the School District pursuant to Chapter 120, Florida Statutes and the School Concurrency Implementation Procedures Manual. Proposed vested rights determinations relating to school facilities concurrency requirements shall also be submitted to the School District for review and recommendation prior to being heard by the Board of County Commissioners. Disagreements between the School District and the County regarding the granting of a vested right relating to school facilities concurrency requirements shall be subject to Chapter 164, Florida Statutes, and shall be initiated by the School District within (30) days of the written decision of the Board of County Commissioners. If the School District has timely initiated the Chapter 164 process, the vested rights determination shall not be effective until the Chapter 164 process is complete and any appeals exhausted.

SECTION 10. Repealer.

All provisions of the Land Development Code of Pasco County, as amended, and ordinances or parts of ordinances in conflict herewith are hereby modified for consistency with this Ordinance, or in the event such provision cannot be modified for consistency with this Ordinance, such provision is hereby repealed to the extent of any conflict.

SECTION 11. Applicability.

For purposes of jurisdictional applicability for implementing school facilities concurrency, this Ordinance shall apply to all development on land where any portion of the development is within the jurisdiction of unincorporated Pasco County.

For purposes of timing applicability for implementing school facilities concurrency, this Ordinance shall apply to non-exempt Initial and Final Certificate of Capacity Development Orders, or substantial modification thereof, for which a complete application has been filed or denied, or which has expired or been revoked, after the effective date of this Ordinance, unless the County and the applicant agree to an earlier application date. Pending complete applications for DRIs, rezonings, preliminary site plans, preliminary plans and residential subdivisions into more than one dwelling unit per lot that are exempt from an Initial Certificate of Capacity that includes school facilities concurrency are not automatically exempt from the requirement to obtain a Final Certificate of Capacity that includes school facilities concurrency. Pending complete applications for building permits and plats are not subject to this Ordinance. Projects not subject to, or exempt from, this Ordinance shall comply with all rules and regulations in effect prior to the adoption of this Ordinance.

SECTION 12. Inclusion in Code.

It is the intent of the Board of County Commissioners that the provisions of this Ordinance shall become and be made a part of the Pasco County Land Development Code, and that the sections of this Ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," "regulation," or such other appropriate word or phrase in order to accomplish such intentions.

SECTION 13. Severability.

It is declared to be the intent of the Board of County Commissioners of Pasco County, Florida, that if any section, subsection, sentence, clause, or provision of this Ordinance shall be declared invalid, the remainder of this Ordinance shall be construed as not having contained said section, subsection, sentence, clause, or provisions and shall not be affected by such holding.

SECTION 14. Effective Date.

A certified copy of this Ordinance shall be filed with the Department of State by the Clerk to the Board within ten (10) days after adoption of this Ordinance, and this Ordinance shall take effect upon filing with the Department of State.

SECTION 15. Relationship to Comprehensive Plan.

Pursuant to Section 163.3194(1), Florida Statutes, to the extent any portion of this Ordinance is deemed by the Board of County Commissioners or a court of competent jurisdiction to be inconsistent with the most recently adopted Comprehensive Plan, the provisions of the most recently adopted Comprehensive Plan shall govern any action taken in regard to an application for a development permit/order until such time that the Comprehensive Plan and the inconsistent portion(s) of this Ordinance are brought into conformity.

ADOPTED this ____ day of _____, 2009.

(S E A L)

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF PASCO COUNTY, FLORIDA

BY: _____
PAULA S. O'NEIL, Clerk
and Comptroller

BY: _____
CHAIRMAN