

Chapter 17.5

AFFORDABLE HOUSING, SUSTAINABILITY, AND CONCURRENCY MANAGEMENT SYSTEM*

Article I. Affordable Housing Advisory Committee

- Sec. 17.5-1. Creation.
- Sec. 17.5-2. Membership.
- Sec. 17.5-3. Terms.
- Sec. 17.5-4. Officers.
- Sec. 17.5-5. Staff.
- Sec. 17.5-6. Meetings.
- Sec. 17.5-7. Rules of procedure.
- Sec. 17.5-8. Records; minutes and annual report.
- Sec. 17.5-9. Conflict of interest.
- Sec. 17.5-10. Powers and duties of the AHAC and AHAC staff.
- Sec. 17.5-11. Approval of recommendations.
- Sec. 17.5-12. Implementation.
- Sec. 17.5-13. Other responsibilities.
- Secs. 17.5-14, 17.5-15. Reserved.

Article II. Reserved

Secs. 17.5-16—17.5-40. Reserved.

Article III. Tampa Comprehensive Plan and Concurrency Management System

- Sec. 17.5-41. Authority.
- Sec. 17.5-42. Legislative findings and intent.
- Sec. 17.5-43. Definitions.
- Sec. 17.5-44. Concurrency review procedures.
- Sec. 17.5-45. Minimum requirements for concurrency.
- Sec. 17.5-46. Recognition of established levels of service in the comprehensive plan.
- Sec. 17.5-47. Vested rights procedure.
- Sec. 17.5-48. Reserved.
- Sec. 17.5-49. Beneficial use.
- Sec. 17.5-50. Concurrency information center.
- Sec. 17.5-51. Monitoring final development permits.
- Sec. 17.5-52. Fees.
- Secs. 17.5-53—17.5-70. Reserved.

Article IV. Reserved

Secs. 17.5-71—17.5-90. Reserved.

Article V. Reserved

Secs. 17.5-91—17.5-140. Reserved.

***Editor's note**—Ord. No. 2012-123, § 1, adopted November 1, 2012, effective December 15, 2012, amend the title of Ch. 17.5 to read as herein set out. Formerly said chapter was entitled planning and land development.

Cross references—Building and construction regulations, Ch. 5; landscaping, tree removal and site clearing, Ch. 13; signs, § 19-96 et seq.; stormwater management, Ch. 21; subdivision procedures, § 27-153.1 et seq.; transportation, Ch. 25; water, § 26-66 et seq.; sanitary sewers, § 26-116 et seq.; solid waste, § 26-146 et seq.; zoning and land development, Ch. 27.

Related law reference—Planning commission, Art. XVII.

TAMPA CODE

Article VI. Concurrency Management Procedures

Division 1. Reserved

Sec. 17.5-141. Reserved.

Division 2. Reserved

Secs. 17.5-142—17.5-159. Reserved.

Division 3. Reserved

Secs. 17.5-160—17.5-169. Reserved.

Division 4. Reserved.

Secs. 17.5-170—17.5-179. Reserved.

Division 5. Concurrency Management Procedures Manual

Sec. 17.5-180. Concurrency Management Procedures Manual adopted.

Secs. 17.5-181—17.5-189. Reserved.

Division 6. Reserved

Secs. 17.5-190—17.5-200. Reserved.

Article VII. The City of Tampa Sustainability Ordinance

Sec. 17.5-201. Short title.

Sec. 17.5-202. Definitions.

Sec. 17.5-203. City funded construction and renovation of structures to comply with LEED Silver Standard.

Sec. 17.5-204. Incentives to encourage sustainable construction and redevelopment.

Sec. 17.5-205. Green building initiatives for affordable housing.

**ARTICLE I. AFFORDABLE HOUSING
ADVISORY COMMITTEE**

Sec. 17.5-1. Creation.

There is hereby established the affordable housing advisory committee, hereafter referred to as AHAC, which shall serve as the advisory review board to periodically evaluate established policies, procedures, ordinances, land development regulations, and the local government comprehensive plan, and report its findings to the Mayor and City Council of the City of Tampa (hereafter jointly referred to as the "governing body") with recommended changes.

(Ord. No. 2008-77, § 1A, 5-15-08)

Sec. 17.5-2. Membership.

The AHAC shall be comprised of eleven (11) members. Six (6) members of the AHAC shall be appointed by the mayor, with the approval of the majority of city council, and five (5) members shall be appointed by city council. The members shall have a demonstrated interest, competence, professional experience or knowledge in the development of affordable housing, planning, building, real estate, mortgage lending, law or other related discipline.

In appointing members, the mayor shall include:

- (1) One (1) citizen who is actively engaged in the residential home building industry in connection with affordable housing.
- (2) One (1) citizen who is actively engaged in banking or mortgage banking industry in connection with affordable housing.
- (3) One (1) citizen who is a representative of those areas of labor actively engaged in home building in connection with affordable housing.
- (4) One (1) citizen who is actively engaged as an advocate for low-income persons in connection with affordable housing.
- (5) One (1) citizen who is actively engaged as a for-profit provider of affordable housing.

- (6) One (1) citizen who is actively engaged as a not-for-profit provider of affordable housing.

In appointing members, city council shall include:

- (7) One (1) citizen who is actively engaged as a real estate professional in connection with affordable housing.
- (8) One (1) citizen who actively serves on the local planning agency pursuant to F.S. § 163.3174.
- (9) One (1) citizen who resides within the City of Tampa.
- (10) One (1) citizen who represents employers within the City of Tampa.
- (11) One (1) citizen who represents essential services personnel, as defined in the local housing assistance plan.
- (12) All appointees shall be residents of the City of Tampa.
 - a. If the governing body, whether due to the city's size, the presence of a conflict of interest by prospective appointees, or other reasonable factor, is unable to appoint a citizen actively engaged in these activities in connection with affordable housing, a citizen actively engaged in the activities without regard to affordable housing may be appointed.
 - b. The members of the AHAC shall not be entitled to compensation, pension, or other retirement benefits by virtue of serving on the AHAC, but shall be entitled to receive their travel expenses and other actual AHAC expenses, as approved by the director of the department of growth management and development services, while outside of the city in the performance of their duties as a committee member, in an amount equal to and computed in the same manner as the amount allowed to officials of the city for travel and subsistence while traveling on public business.

- c. If a member of the AHAC has one (1) or more conflicts of interest, as defined in F.S. Ch. 112, within one (1) year, then such a member's appointment shall be reviewed by the mayor for a determination of whether the member's business or personal interests present frequent, recurring conflicts with his/her membership. Upon such a finding by the mayor with the approval of city council, the AHAC member shall be removed and a replacement appointed. Except with respect to their official duties, members of the AHAC shall not participate in activities relating to matters filed with the AHAC.

(Ord. No. 2008-77, § 1B, 5-15-08)

Sec. 17.5-3. Terms.

All appointments shall be made for terms of three (3) years. No member shall serve more than two (2) consecutive terms on the AHAC. Appointments to fill a vacancy shall be for the unexpired term of office, which term shall not count toward the two (2) consecutive term limit. Upon the expiration of a term, members may continue to serve until replaced by the original governing body. Upon the expiration of a term and replacement by the governing body, a former member is not eligible to be re-appointed to the AHAC unless a minimum of one (1) year has transpired. The terms of the original members may be staggered so that all terms may not expire simultaneously. (Ord. No. 2008-77, § 1C, 5-15-08)

Sec. 17.5-4. Officers.

The AHAC shall each year elect members to serve as chair and vice-chairs. The chair shall preside at meetings of the AHAC and shall have the right to vote. The chair shall be the spokesman for the AHAC in presenting its policy to the public. In the absence or disability of the chair, the vice-chair shall perform the duties of the chair. At the chair's request, an administrator of the AHAC may present the AHAC policy to the public or before governmental bodies. (Ord. No. 2008-77, § 1D, 5-15-08)

Sec. 17.5-5. Staff.

The AHAC shall be cooperatively staffed by the growth management and development services department, which has the authority to administer local affordable housing programs, to ensure an integrated approach to the work of the AHAC. The director of growth management and development services shall designate an AHAC administrator, who shall have the responsibility of assisting the AHAC in the implementation of its duties. The AHAC administrator and staff shall not sit as officers or board members of local affordable housing related organizations. The AHAC administrator and staff shall act in an impartial manner in all matters involving AHAC. Except with respect to their official duties, the AHAC administrator and staff shall not participate in activities relating to matters filed with the AHAC.

(Ord. No. 2008-77, § 1E, 5-15-08)

Sec. 17.5-6. Meetings.

The AHAC shall meet at least once a month for the first year, and quarterly, or more frequently, thereafter, at a regularly scheduled time with advance notice given and an agenda available prior to the meeting. The chair may cancel a regularly scheduled meeting if there is no business or quorum to conduct the meeting. If a meeting is cancelled due to a lack of quorum, all matters on the agenda shall automatically carry over to the next regularly scheduled AHAC meeting. Additional meetings may be called by the chair or upon the request of six (6) members of the AHAC. All meetings of the AHAC shall be open to the public.

- (1) *Attendance at meetings.* Any member of the AHAC who misses more than three (3) consecutive regular meetings or more than half of the regular meetings in a calendar year may be dismissed from the AHAC by the mayor with the approval of city council. Replacement shall be made by the mayor or city council, whichever appointed the dismissed member. The replacement shall be made by resolution. Absences due to an illness or an emergency shall be recognized as approved absences and shall not affect the member's status on the AHAC, except that in

the event of a long illness or other such cause for prolonged absence, the member may be replaced in the manner described herein.

(Ord. No. 2008-77, § 1F, 5-15-08)

Sec. 17.5-7. Rules of procedure.

The AHAC shall adopt and make public rules for the transactions of its business.

(Ord. No. 2008-77, § 1G, 5-15-08)

Sec. 17.5-8. Records; minutes and annual report.

All AHAC records are public records. The AHAC administrator shall prepare and file, available for public inspection, minutes of its meetings, written reports, and such records of its activities as may be performed in the regular course of its activities.

(Ord. No. 2008-77, § 1H, 5-15-08)

Sec. 17.5-9. Conflict of interest.

AHAC members shall comply with the state ethics code and the city code of ethics, in the same manner as those codes are applicable to appointed officials. Any member who abstains from a vote due to a conflict of interest shall not be considered as part of the total membership for that vote.

(Ord. No. 2008-77, § 1I, 5-15-08)

Sec. 17.5-10. Powers and duties of the AHAC and AHAC staff.

The AHAC shall have the following responsibilities as authorized by F.S. 420.9076:

- (1) *Function of the AHAC generally.* Triennially, the AHAC shall review the established policies and procedures, ordinances, land development regulations and the local comprehensive plan, and shall recommend specific actions or initiatives to encourage or facilitate affordable housing while protecting the ability of the property to appreciate in value.
- (2) *Recommendations.* The recommendations may include the modification or repeal of existing policies, procedures, ordinances, regulations, or plan provisions; the cre-

ation of exceptions applicable to affordable housing; or the adoption of new policies, procedures, regulations, ordinances, or plan provisions, including recommendations to amend the local government comprehensive plan and corresponding regulations, other regulations, ordinances, and other policies. At a minimum, the AHAC shall submit an initial report to the local governing body, and triennially thereafter, that includes recommendations on, and evaluation and implementation of, affordable housing incentives in the following areas:

- a. The processing of approvals of development orders or permits, as defined in F.S. § 163.3164(7) and (8), for affordable housing projects, is expedited to a greater degree than other projects.
- b. The modification of impact-fee requirements, including reduction or waiver of fees and alternative methods of fee payment for affordable housing.
- c. The allowance of flexibility in densities for affordable housing.
- d. The reservation of infrastructure capacity for housing for very-low-income persons, low-income persons, and moderate-income persons.
- e. The allowance of affordable accessory residential units in residential zoning districts.
- f. The reduction of parking and setback requirements for affordable housing.
- g. The allowance of flexible lot configurations, including zero-lot-line configurations for affordable housing.
- h. The modification of street requirements for affordable housing.
- i. The establishment of a process by which a local government considers, before adoption, policies, procedures,

ordinances, regulations, or plan provisions that increase the cost of housing.

- j. The preparation of a printed inventory of locally owned public lands suitable for affordable housing.
- k. The support of development near transportation hubs and major employment centers and mixed-use developments.

- (3) *Additional recommendations.* AHAC recommendations may also include other affordable housing initiatives identified by AHAC.

(Ord. No. 2008-77, § 1J, 5-15-08)

Sec. 17.5-11. Approval of recommendations.

The approval by the AHAC of its local housing incentive strategies recommendations and its review of local government implementation of previously recommended strategies must be made by affirmative vote of a majority of the membership of the AHAC taken at a public hearing.

- (1) Notice of the time, date, and place of the public hearing of the AHAC to adopt final local housing incentive strategies recommendations must be published in a newspaper of general paid circulation in the county. The notice must contain a short and concise summary of the local housing incentive strategies recommendations to be considered by the AHAC. The notice must state the public place where a copy of the tentative AHAC recommendations can be obtained by interested persons.

(Ord. No. 2008-77, § 1K, 5-15-08)

Sec. 17.5-12. Implementation.

Within ninety (90) days after the date of receipt of the local housing incentive strategies recommendations from the AHAC, the City of Tampa shall adopt an amendment to its local housing assistance plan to incorporate the local housing incentive strategies it will implement within its jurisdiction. The amendment must include, at a minimum, the local housing incentive strategies required under F.S. § 420.9071(16). The City of

Tampa must consider the strategies specified in subsections 17.5-10(2)a.—k. hereof as recommended by the AHAC.

- (1) The City of Tampa Growth Management and Development Services Department shall notify the Florida Housing Finance Corporation (Corporation) by certified mail of the city's adoption of an amendment of its local housing assistance plan to incorporate local housing incentive strategies. The notice must include a copy of the approved amended plan.
- (2) If the corporation fails to receive the approved amended local housing assistance plan to incorporate local housing incentive strategies in a timely manner, a notice of termination of its share of the local housing distribution shall be sent by certified mail by the corporation to the City of Tampa. The notice of termination must specify a date of termination of the funding if the city has not adopted an amended local housing assistance plan to incorporate local housing incentive strategies. If the city has not adopted an amended local housing assistance plan to incorporate local housing incentive strategies by the termination date specified in the notice of termination, the local housing distribution share terminates; and any uncommitted local distribution funds held by the city in its local housing assistance trust fund shall be transferred to the local government housing trust fund to the credit of the corporation to administer the local government housing program pursuant to F.S. § 420.9078.

(Ord. No. 2008-77, § 1L, 5-15-08)

Sec. 17.5-13. Other responsibilities.

The AHAC may perform other duties at the request of the governing body, including:

- (1) The provision of mentoring services to affordable housing partners including developers, banking institutions, employers, and others to identify available incen-

tives, assist with applications for funding requests, and develop partnerships between various parties.

- (2) The creation of best practices for the development of affordable housing in the community.
(Ord. No. 2008-77, § 1M, 5-15-08)

Secs. 17.5-14, 17.5-15. Reserved.

ARTICLE II. RESERVED*

Secs. 17.5-16—17.5-40. Reserved.

ARTICLE III. TAMPA COMPREHENSIVE PLAN AND CONCURRENCY MANAGEMENT SYSTEM†

Sec. 17.5-41. Authority.

(a) This article is adopted in compliance with and pursuant to F.S. § 163.3161 et seq., the Local Government Comprehensive Planning and Land Development Regulation Act.

***Editor’s note**—Ord. No. 2012-123, § 2, adopted November 1, 2012, repealed §§ 17.5-16, 17.5-17, which pertained to land development code and derived from Ord. No. 90-35, §§ 1, 2, 2-8-90; Ord. No. 90-112, § 1, 4-26-90; Ord. No. 90-249, § 1, 10-4-90; Ord. No. 2002-77, § 1, 3-14-02; Ord. No. 2006-297, § 1, 11-20-06. The users' attention is directed to Ch. 27 for similar provisions.

†**Editor’s note**—This article is included as part of the land development code adopted in § 17.5-17 which combines and compiles all land development regulations into a single land development code. This article consists of the substantive portions of Ord. No. 90-32 enacted February 8, 1990. Section II(A) of Ord. No. 90-32 states in pertinent part: "The recital clauses of this Ordinance . . . are hereby adopted by reference as the legislative findings of the City Council . . ." Therefore, the preamble of Ord. No. 90-32 is published as follows:

AN ORDINANCE OF THE CITY OF TAMPA, FLORIDA, ADOPTING A CONCURRENCY MANAGEMENT SYSTEM; STATING THE AUTHORITY AND PURPOSE OF A CONCURRENCY MANAGEMENT SYSTEM; PROVIDING FOR DEFINITIONS; PROVIDING FOR CONCURRENCY EVALUATION AND DETERMINATION PROCEDURES; PROVIDING FOR MINIMUM REQUIREMENTS; PROVIDING FOR RECOGNITION OF ESTABLISHED LEVELS OF SERVICE IN THE TAMPA COMPREHENSIVE PLAN; PROVIDING FOR A VESTED RIGHTS PROCEDURE; PROVIDING FOR BENEFICIAL USES; PROVIDING FOR A CON-

CURRENCY INFORMATION CENTER; PROVIDING FOR THE MONITORING OF FINAL DEVELOPMENT PERMITS; PROVIDING AUTHORITY FOR FEES; PROVIDING FOR MANDATORY REVIEW; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 163.3161, et seq., Florida Statutes (1989), establishes the Local Government Comprehensive Planning and Land Development Regulation Act (the "Growth Management Act"); and

WHEREAS, the Growth Management Act requires all local governments to adopt comprehensive plans which regulate the development of land within the local government's jurisdiction; and

WHEREAS, the City of Tampa ("City") adopted its comprehensive plan as Ordinance No. 89-167 on July 17, 1989 ("Tampa Comprehensive Plan"); and

WHEREAS, Section 163.3202, Florida Statutes, requires that each local government adopt land development regulations within one year after submission of its revised comprehensive plan, which regulations shall contain specific and detailed provisions necessary or desirable to implement the adopted comprehensive plans; and

WHEREAS, the City must adopt and enforce land development regulations which assure that public facilities and services meet or exceed the standards established in the Tampa Comprehensive Plan; and

WHEREAS, the City must adopt a Concurrency Management System ("CMS") which prohibits development which results in a reduction of level of service for affected public facilities and services below that provided in the Tampa Comprehensive Plan; and

WHEREAS, the Concurrency Management Advisory Committee met on December 1, 8, and 15, 1989 and January 5, 12, and 19, 1990, for the purpose of reviewing this proposed CMS, and has made recommendations to the City Council regarding this proposed CMS; and

WHEREAS, the Local Planning Agency held a public hearing on January 17, 1990 and accepted public comments, and found this Ordinance to be consistent with the Tampa Comprehensive Plan; and

WHEREAS, the City Council of the City of Tampa held public hearings on January 25 and February 8, 1990 and accepted public comments, and found this Ordinance to be consistent with the Tampa Comprehensive Plan;

WHEREAS, the City, by adopting this Ordinance, adopts and establishes a CMS for the City of Tampa;

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of Tampa, Florida, as follows:

Subsequently, Ord. No. 2011-40, § 1, adopted March 17, 2011, amended the title of Art. III to read as herein set out. Prior to inclusion of said ordinance, Art. III was titled, "Concurrency Management System." See also the Code Comparative Table.

(b) This article is adopted pursuant to the Constitutional and Home Rule powers of Article VIII, Florida Constitution, F.S. Ch. 166, and section 2.05 of the Charter. (Ord. No. 90-32, § I, 2-8-90)

Sec. 17.5-42. Legislative findings and intent.

(a) The recital clauses of this ordinance and the following statements are hereby adopted by reference as the legislative findings of the city council and shall act as further justification and authority for the adoption of this article.

(b) It is the purpose of this article to establish a concurrency management system (CMS) that ensures that facilities and services needed to support land development are available concurrent with the impacts of such development. The CMS shall ensure that adopted levels of service standards for roadways, potable water, sanitary sewers, solid waste, drainage, recreation, and public schools shall not be degraded below the levels adopted in the Tampa Comprehensive Plan by the issuance of a final development permit.

(c) The city desires to establish a CMS which informs the citizens about infrastructure deficiencies, creates options to mitigate such deficiencies, informs other governments or agencies when such deficiencies exist on infrastructure not the responsibility of the city, and allows minimal development which will avoid a claim against the city that property has been "taken without just compensation."

(d) Not all such development activity impacts are significant enough to cause the deterioration of the level of service as adopted in the Tampa Comprehensive Plan. It is, therefore, further found that to establish a minimum developmental impact in accordance with applicable state law, as it may be amended from time to time, which minimum developmental impact, alone or in combination with other similar or lesser impacts, will not cause an unacceptable degradation of existing levels of service is consistent with the goals, objectives and policies of the Tampa Comprehensive Plan. Application of this methodology is found

to be substantially related to the preservation of individual, private property rights in accordance with the state comprehensive plan. (Ord. No. 90-32, § II, 2-8-90; Ord. No. 99-125, § 1, 6-10-99; Ord. No. 2011-40, § 2, 3-17-2011)

Sec. 17.5-43. Definitions.

For the purpose of this article, certain abbreviations, terms, phrases, words and their derivatives shall have the meanings as set forth in Chapter 27. (Ord. No. 90-32, § III, 2-8-90; Ord. No. 99-125, §§ 2, 3, 6-10-99; Ord. No. 2011-40, § 3, 3-17-2011; Ord. No. 2012-123, § 3, 11-1-2012)

Sec. 17.5-44. Concurrency review procedures.

Review procedures for the concurrency management system shall be as follows:

- (1) *Concurrency determination of a preliminary development permit.* A concurrency evaluation must be performed by the city prior to the issuance of a preliminary development permit. The concurrency evaluation for a preliminary development permit will be incorporated into the development review process. The evaluation with respect to facility or service availability will be included in the staff report or review. The concurrency evaluation performed for a preliminary development permit does not guarantee service availability during subsequent reviews. A certificate of concurrency will not be issued for a preliminary development permit.
- (2) *Concurrency determination for a final development permit.*
 - a. *General.*
 1. The issuance of a certificate of concurrency ("COC") shall be required with the issuance of any final development permit.
 2. If a development requires more than one (1) final development permit, the issuance of the COC

- shall occur with the issuance of the first final development permit.
3. A COC shall automatically expire with the expiration of the final development permit to which it applies, unless otherwise specified herein. In the event that a time extension is granted prior to the expiration of the final development permit, then the accompanying COC shall be automatically renewed for the length of the time extension.
 4. If the concurrency determination results in a finding that public facilities and services are sufficient to serve the development, the appropriate city department or agency shall reserve the capacity required for the final development permit after application and approval of the permit, except that reservation of capacity for F.S. Ch. 380 final development permits shall occur at the time of issuance of the final report by the Tampa Bay Regional Planning Council. This capacity shall not be returned to the system unless and until the application is, for whatever reason, denied, rejected, expired, invalidated or abandoned.
 5. If the concurrency determination results in a finding that public facilities and services are not sufficient to serve the development, the application for the final development permit shall be returned to the applicant with an explanation as to what the deficiencies are. Notwithstanding this provision, permits will be issued in accordance with section 17.5-49 of this article.
- b. *Concurrency determination at application for commercial site plan.*
 1. With respect to potable water, wastewater, solid waste and parks and recreation, if the annual capacity statement indicates that a public facility or service is at ninety (90) percent of capacity, the applicant shall provide the information, as outlined in the concurrency procedures manual, to determine project impact on available capacity.
 2. With respect to stormwater management, and public schools, all commercial site plan applications will be reviewed in accordance with the requirements outlined in the concurrency procedures manual.
 3. With respect to transportation, commercial site plan applications within the TCEA are not subject to concurrency review; however all commercial site plan applications will be reviewed in accordance with the requirements outlined in the transportation review and mitigation procedures manual as set forth in Chapter 25.
 4. If adequate public facilities and services exist to serve the proposed development, a COC will be issued with the approval of the commercial site plan. The applicant has one (1) year from commercial site plan approval to obtain a building permit. If a building permit is not received within that year, the COC expires and the reserved capacity for the project is returned to the system.
 - c. *Concurrency determination at application for building permit.*
 1. With respect to potable water, wastewater, solid waste and

- parcs and recreation, if the annual capacity statement indicates that a public facility or service is at ninety (90) percent of capacity, the applicant shall provide the information, as outlined in the concurrency procedures manual, to determine project impact on available capacity.
2. With respect to stormwater management, and public schools, all building permit applications will be reviewed in accordance with the requirements outlined in the concurrency procedures manual.
 3. With respect to transportation, building permit applications within the TCEA are not subject to concurrency review; however all building permit applications will be reviewed in accordance with the requirements outlined in the transportation review and mitigation procedures manual as set forth in Chapter 25.
 4. If adequate public facilities and services exist to serve the proposed development, a COC will be issued with the approval of the building permit. The COC is valid for the length of the building permit approval.
- d. *Concurrency determination at application for construction drawing review:*
1. With respect to potable water, wastewater, solid waste and parks and recreation, if the annual capacity statement indicates that a public facility or service is at ninety (90) percent of capacity, the applicant shall provide the information, as outlined in the concurrency procedures manual, to determine project impact on available capacity.
 2. With respect to stormwater management, and public schools, all construction drawing review applications will be reviewed in accordance with the requirements outlined in the concurrency procedures manual.
 3. With respect to transportation, construction drawing applications within the TCEA are not subject to concurrency review; however all construction drawing applications will be reviewed in accordance with the requirements outlined in the transportation review and mitigation procedures manual as set forth in Chapter 25.
 4. If adequate public facilities and services exist to serve the proposed development, a COC will be issued with the approval of the construction drawings. The COC is valid for the length of the construction drawing approval.
- e. *Concurrency determination at application for final plat.*
1. With respect to potable water, wastewater, solid waste and parks and recreation, if the annual capacity statement indicates that a public facility or serve is at ninety (90) percent of capacity, the applicant shall provide the information, as outlined in the concurrency procedures manual, to determine project impact on available capacity.
 2. With respect to stormwater management, and public schools, all applications for final plat approval will be reviewed in accordance with the requirements outlined in the concurrency procedures manual.

viewed in accordance with the requirements outlined in the concurrency procedures manual.

3. With respect to transportation, final plat approval applications within the TCEA are not subject to concurrency review; however all applications for final plat approval will be reviewed in accordance with the requirements outlined in the transportation review and mitigation procedures manual as set forth in Chapter 25.
 4. If adequate public facilities and services exist to serve the proposed development, a COC will be issued with the approval of the final plat. The COC is valid for the length of the final plat approval.
- f. *Concurrency determination for F.S. Ch. 380, DRI development order or Florida Quality Development.*
1. A preliminary concurrency determination will be made with the review of the application for development approval (ADA).
 2. Capacity reservation for DRI's and Florida Quality Developments may be amended from time to time, shall occur with the issuance of the final report by the Tampa Bay Regional Planning Council.
 3. The certificate of concurrency shall be issued at approval by the DRI development order or Florida Quality Development.
 4. The COC shall be valid for the length and as provided for in the DRI development order or Florida Quality Development.

(Ord. No. 90-32, § IV, 2-8-90; Ord. No. 99-125, § 4, 6-10-99; Ord. No. 2005-25, § 2, 1-27-05; Ord. No. 2011-40, § 4, 3-17-2011)

Sec. 17.5-45. Minimum requirements for concurrency.

In order to obtain a certificate of concurrency based on the existence of adequate public facilities and/or service, the following conditions must be satisfied:

- (1) *For potable water, sewer, solid waste, drainage and parks and recreation.*
 - a. The necessary facilities and services are in place at the time a final development permit is issued;
 - b. A final development permit is issued subject to the condition that the necessary facilities and services are included in year one (1) of the capital improvement element;
 - c. The necessary facilities are under construction at the time a final development permit is issued; or
 - d. Provisions of facilities and services are guaranteed via an enforceable development agreement, to be in place prior to issuance of certificate of occupancy. An enforceable development agreement may include, but is not limited to, service commitments, development agreements pursuant to F.S. § 163.3220, or an agreement or development order or Florida Quality Development issued pursuant to F.S. Ch. 380. The agreement must guarantee that the necessary facilities and services will be in place when the impacts of the development occur.
- (2) *For transportation.*
 - a. The provisions of subsection (1)a. through d. of this section may satisfy the concurrency test;
 - b. The necessary transportation improvement(s) is/are included in the five-year schedule of capital improvements with actual construction scheduled to commence in or before the third year of the five-year schedule of capital improvements; or

- c. The necessary transportation improvement(s) is/are the subject of a binding agreement executed by the developer or an enforceable development agreement, which requires the necessary transportation improvement(s) to serve the new development to be in place or under actual construction no more than three (3) years after the issuance of a certificate of occupancy for the new development; or
- d. The new development would create a "de minimis impact," as defined in F.S. § 163.3180(6), on the existing roadways and transportation network; or
- e. The new development is located within the boundaries of the Transportation Concurrency Exception Area (TCEA). Development within the TCEA is exempt from the concurrency provision that requires the necessary transportation improvements(s) to serve the new development at adopted levels of service to be in place or under actual construction no more than three (3) years after the issuance of a certificate of occupancy for the new development. Notwithstanding the exemption from transportation concurrency, the development is still subject to transportation review and mitigation requirements as set forth in Chapter 25, Tampa City Code.

(3) *For public schools.*

- a. The new development on a lot of record or a lot approved through preliminary plat which meets the density and intensity consistent with the underlying zoning district as of the effective date of the adoption of this provision, or
- b. The new development is an amendment to a preliminary plat, which was approved prior to the effective date of the adoption of this provi-

sion, and which does not increase the number of students generated by the development based on the student generation rates for each school type, or

- c. The new development is an age restricted fifty-five-plus development that is subject to deed restrictions prohibiting the permanent occupancy of a resident under the age of fifty-five (55). Such deed restrictions must be recorded and must be irrevocable for a period of at least thirty (30) years, or
- d. The new development is a group quarters that does not generate students, including residential facilities such as local jails, prisons, hospitals, bed and breakfast, motels and hotels, temporary emergency shelters for the homeless, adult halfway houses, firehouse dorms, college dorms exclusive of married student housing, and religious non-youth facilities, or
- e. The new development would not create a demand for at least one (1) student station as defined in the concurrency management procedures manual, or
- f. The school board's written determination that adequate school capacity will be in place or under actual construction within three (3) years after the issuance of final subdivision or site plan approval for each level of school without mitigation; or
- g. The execution of a legally binding mitigation agreement between the applicant and the school board, as provided by this agreement.

(Ord. No. 90-32, § V, 2-8-90; Ord. No. 99-125, § 5, 6-10-99; Ord. No. 2005-25, § 3, 1-27-05; Ord. No. 2011-40, § 5, 3-17-2011)

Sec. 17.5-46. Recognition of established levels of service in the comprehensive plan.

The city shall recognize those levels of service, adopted in the Tampa Comprehensive Plan, and

as set forth below. The levels of service for public facilities and services subject to concurrency are:

- (1) *Potable water [Policy 60.4.2 Tampa Comprehensive Plan]:*

Raw water:	125 gals/capita/day (yearly average)
Treatment:	166 gals/capita/day
Pumping capacity:	166 gals/capita/day 26 mgd (fire reserve)

- (2) *Wastewater [Policy 60.4.2 Tampa Comprehensive Plan]:* The adopted level of service is divided into two (2) parts, level of service for the collection system and level of service for the treatment plant.

I. Level of service for the collection system is as follows:

District	Capacity (MGD)
Interbay	40.5
Central	50.0
West River w/Downtown	57.0
Southeast and Causeway	32.0
Main Outlet	32.5

II. Level of service for the treatment plant is set by the permitted discharge limits as follows:

Parameter	Allowed Concentration (lbs/gallon/day)	Maximum Permitted Effluent Load (lbs/day)
BOD	.000042	4003
Suspended Solids	.000042	4003
Nitrogen	.000025	2402

- (3) *Solid waste [Policy 60.4.2 Tampa Comprehensive Plan]:*

- a. Six and one-half (6.50) lbs/capita/day.

- (4) *Recreation and open space [Policy 60.4.2 Tampa Comprehensive Plan]:*

- a. Neighborhood parks, two (2) acs/one thousand (1,000) residents;
- b. Major parks, two and three tenths (2.3) acs/one thousand (1,000) residents;

- c. Regional parks, twenty (20) acs/one thousand (1,000) residents.

- (5) *Stormwater management [Policy 60.4.2 Tampa Comprehensive Plan]:* Post development runoff does not exceed the predeveloped discharge volume and/or rate.

- (6) *Transportation [Policy 60.4.2 Tampa Comprehensive Plan]:* The level of service for City of Tampa roads is LOS "D".

- (7) *Mass Transit [Policy 60.4.2 Tampa Comprehensive Plan]:* Peak hour load factor less than or equal to 1.2/bus (peak hour load factor = passengers/capacity).

- (8) *Public Schools [Policy 60.4.2 Tampa Comprehensive Plan]:*

Elementary school	One hundred (100) percent of permanent FISH capacity;
Middle school	One hundred (100) percent of permanent FISH capacity;
K—8 school	One hundred (100) percent of permanent FISH capacity;
High school	One hundred (100) percent of permanent FISH capacity;
Special purpose facility	One hundred (100) percent permanent FISH capacity.

(Ord. No. 90-32, § VI, 2-8-90; Ord. No. 99-125, § 6, 6-10-99; Ord. No. 2011-40, § 6, 3-17-2011)

Sec. 17.5-47. Vested rights procedure.

(a) *Statutory vested rights.* A proposed development shall be exempt from the requirements of the concurrency management system if it has received a final local development order on or before January 31, 1990.

(b) *Common law vested rights.* A proposed development may proceed, even if deemed inconsistent with the Tampa Comprehensive Plan or amendments thereto or inconsistent with the land development regulations adopted to implement the Tampa Comprehensive Plan if a written determination of vested rights is obtained pursuant to this section.

(c) *Vested rights determination process.*

- (1) A vested rights determination shall be made pursuant to the formal decision process in section 27-368.1.
- (2) Standards for vested rights determination.
 - a. The applicant must show the follow:
 - i. As to statutory vesting for concurrency and the land development regulations adopted to implement concurrency, owned the property on January 31, 1990; as to common law vesting for the adopted Tampa Comprehensive Plan or amendments thereto or land development regulations adopted to implement the Tampa Comprehensive Plan owned the property prior to the date of adoption of this provision or the date of the provision of the Tampa Comprehensive Plan or the date of adoption of any subsequent amendments thereto; or
 - ii. Entered into a contract or option to purchase the property on or before such date set forth in (a) above; or
 - iii. Presents evidence such that it would be inequitable, unjust or fundamentally unfair to deny an application for vested rights where the applicant acquired ownership after such date; and
 - b. There was a valid, unexpired act of by Tampa City Council or a City of Tampa department or division with authority to make decisions or a valid, unexpired act by another governmental entity upon which the applicant reasonably relied in good faith; and
 - c. The applicant, in reliance upon such valid, unexpired act, has made a substantial change in position or has incurred extensive obligations or expenses; and

- d. It would be inequitable, unjust or fundamentally unfair to destroy the rights acquired by the applicant. In making this determination, the zoning administrator shall consider the following factors:
 - i. Whether construction or other development activity has commenced and is continuing in good faith, or
 - ii. Whether the expense or obligation incurred cannot be substantially utilized for a development proposal which would be permitted under the newly adopted provisions of Tampa Comprehensive Plan and/or land development regulations adopted to implement the Tampa Comprehensive Plan.

- e. Eligibility of certain development expenditures or obligations: The following are not considered development expenditures or obligations in and of themselves, without more, unless the applicant was unable to obtain further approvals because of extraordinary delays, beyond the applicant's control:
 - i. Expenditures for legal and other professional services that are not related to the design or construction of improvements.
 - ii. Taxes paid.
 - iii. Expenditures for initial acquisition of the land.

(d) *Effect of vested rights determination.*

- (1) Possession of an unexpired vested rights determination shall enable the applicant to complete development which is the subject of the determination up to and through issuance of appropriate certificates of occupancy, subject to compliance with such laws, ordinances and regulations against which the development is not vested.

- (2) A vested rights determination shall be valid for five (5) years from the date of the issuance of the vested rights determination. After expiration, an applicant shall be required to reapply for a vested rights determination and show compliance with this section or be required to comply with applicable provisions of the Tampa Comprehensive Plan and applicable land development regulations and/or other applicable City of Tampa Code of Ordinances.
- (3) An unexpired vested rights determination shall run with the parcel which was the subject of the vested rights determination and is therefore transferable to any new owner of the subject parcel.

(Ord. No. 90-32, § VII, 2-8-90; Ord. No. 2011-40, § 7, 3-17-2011)

Sec. 17.5-48. Reserved.

Editor’s note—Ord. No. 2011-40, § 8, adopted March 17, 2011, repealed § 17.5-48, which pertained to appellate process. See also the Code Comparative Table.

Sec. 17.5-49. Beneficial use.

Upon a determination that adequate facilities and services are not available for a project applying for a final development permit, the city will issue a final development permit if the trip generation from the proposed development totals five (5) or fewer peak-hour trips.

(Ord. No. 90-32, § IX, 2-8-90)

Sec. 17.5-50. Concurrency information center.

A concurrency information center shall be established by the director of growth management and development services. The concurrency information center shall provide to the public, upon request, information on existing and anticipated capacities and levels of service of all services addressed by this article. This information will reflect existing facility and service capacities, planned and committed facility and service capacity increases or extensions, and existing and committed service demands.

(Ord. No. 90-32, § X, 2-8-90; Ord. No. 2011-40, § 9, 3-17-2011)

Sec. 17.5-51. Monitoring final development permits.

The city shall monitor final development permits for their impact on facility or service availability. The monitoring of permits will be accomplished by the annual capacity statement or on a permit-by-permit basis for transportation and stormwater management impacts and for those facilities and services at ninety (90) percent of capacity.

(Ord. No. 90-32, § XI, 2-8-90)

Sec. 17.5-52. Fees.

Reasonable fees for conducting concurrency analyses, providing written information, and for providing services to support the concurrency management program may be charged and collected upon establishment of a schedule of reasonable fees by resolution of the city council.

(Ord. No. 90-32, § XII, 2-8-90)

Secs. 17.5-53—17.5-70. Reserved.

ARTICLE IV. RESERVED*

Secs. 17.5-71—17.5-90. Reserved.

ARTICLE V. RESERVED†

Secs. 17.5-91—17.5-140. Reserved.

***Editor’s note**—Ord. No. 2012-123, § 4, adopted November 1, 2012, repealed §§ 17.5-71—17.5-78, which pertained to land development variance review board and derived from Ord. No. 95-253, § 1, 11-30-95; Ord. No. 98-12, §§ 1, 2, 1-8-98; Ord. No. 2002-67, § 2, 2-28-02; Ord. No. 2004-71, § 3, 3-11-04; Ord. No. 2005-255, § 5, 9-15-05; Ord. No. 2007-48, § 2, 2-15-07; Ord. No. 2007-199, § 2, 10-4-07; Ord. No. 2008-174, § 1, 10-16-08; Ord. No. 2009-13, § 1, 1-8-09; Ord. No. 2010-50, § 1, 5-6-2010; Ord. No. 2010-121, § 1, 8-26-2010, eff. 9-1-2010; Ord. No. 2011-12, § 2, 1-20-2011, eff. 2-1-2011. For similar provisions see sections 27-77—27-84.

†Editor’s note—Ord. No. 2012-123, § 5, adopted November 1, 2012, repealed §§ 17.5-91—17.5-95, 17.5-101—17.5-106, 17.5-113—17.5-122, 17.5-129—17.5-133, which pertained to land development variance review board and derived from Ord. No. 99-141, § 1, 6-24-99; Ord. No. 2005-255, § 7, 9-15-05. For similar provisions see sections 27-287—27-287.24.

ARTICLE VI. CONCURRENCY MANAGEMENT PROCEDURES

DIVISION 1. RESERVED*

Sec. 17.5-141. Reserved.

DIVISION 2. RESERVED†

Secs. 17.5-142—17.5-159. Reserved.

DIVISION 3. RESERVED‡

Secs. 17.5-160—17.5-169. Reserved.

DIVISION 4. RESERVED.

Secs. 17.5-170—17.5-179. Reserved.

DIVISION 5. CONCURRENCY MANAGEMENT PROCEDURES MANUAL

Sec. 17.5-180. Concurrency Management Procedures Manual adopted.

The Concurrency Management Procedures Manual, as it may be amended from time to time, is hereby adopted as a technical manual by this reference, and it, therefore, has the forward effect of law.
(Ord. No. 99-125, § 7, 6-10-99)

Secs. 17.5-181—17.5-189. Reserved.

***Editor’s note**—Ordinance No. 2012-126, § 2(Exh. A), adopted November 1, 2012, renumbered and readopted § 17.5-141 as § 27-271.

†**Editor’s note**—Ord. No. 2012-123, § 6, adopted November 1, 2012, repealed § 17.5-142—17.5-151, which pertained to stormwater technical standards manual for private development adopted and derived from Ord. No. 96-269, § 3, 12-5-96; Ord. No. 97-89, § 1, 4-24-97.

‡**Editor’s note**—Ord. No. 2012-123, § 6, adopted November 1, 2012, repealed § 17.5-160—17.5-162, which pertained to technical standards manual for sewer adopted and derived from Ord. No. 99-109, § 1, 5-27-99; Ord. No. 2002-143, § 1, 7-11-02; Ord. No. 2004-119, § 1, 5-6-04.

DIVISION 6. RESERVED**

Secs. 17.5-190—17.5-200. Reserved.

ARTICLE VII. THE CITY OF TAMPA SUSTAINABILITY ORDINANCE

Sec. 17.5-201. Short title.

This section shall be known as the City of Tampa Sustainability Ordinance.
(Ord. No. 2008-112, § 2, 6-26-08)

Sec. 17.5-202. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Administration means the Mayor of the City of Tampa or his or her designee.

Best Practices are defined as the techniques, methodologies, processes, practices, and systems identified by public and private organizations that performed exceptionally well utilizing available and appropriate resources. They are widely recognized as continuously improving an organization's performance and efficiency in specific areas that, through experience and research, have proven to reliably lead to a desired result.

Building means any structure designed or intended for the support, enclosure, shelter or protection of persons, animals, chattels or property.

Building, accessory means subordinate building detached from, but located on the same lot as the principal building, the use of which is incidental and accessory to that of the principal building.

Building, principal means a building or, where the context so indicates, a group of buildings, in which is conducted the principal use of the lot on which such building is located.

****Editor’s note**—Ord. No. 2012-123, § 6, adopted November 1, 2012, repealed § 17.5-160—17.5-162, which pertained to historic district and landmark design guidelines and derived from Ord. No. 200-235, § 4, 8-31-00; Ord. No. 2002-21, § 2, 1-3-02; Ord. No. 2002-22, § 2, 1-3-02; Ord. No. 2002-23, § 2, 1-3-02; Ord. No. 2002-230, § 1, 10-10-02; Ord. No. 2003-152, § 4, 6-26-03.

CGO is defined as the city's green officer.

Demolition means the act of razing, dismantling or removal of a building or structure, or portion thereof, to the ground level.

FGBC is defined as the Florida Green Building Coalition.

Green building means any building which increases the efficiency with which it uses resources, such as energy, water, and materials, while reducing a buildings negative impact on human health and the environment, through better siting, design, construction, operation, maintenance, and removal, completing building life cycle.

Major renovation means any construction, reconstruction, structural alteration, expansion, enlargement or remodeling conducted within any two-year period, the total cost of which exceeds fifty-one (51) percent of the assessed value of the property.

New construction means the erection of a building or structure or the addition to a building or structure of greater than fifty (50) percent of the existing building size in square feet.

Permit means an official document authorizing performance of a specific activity regulated by this chapter.

Structure, for the purposes of this chapter, means any principal and/or accessory building constructed or erected which requires a fixed location on the ground or attachment to something having a fixed location on the ground.

USGBC is defined as the United States Green Building Council.
(Ord. No. 2008-112, § 3, 6-26-08)

Sec. 17.5-203. City funded construction and renovation of structures to comply with LEED Silver Standard.

(a) All new construction of municipal buildings, regardless of the source of the funds, in excess of five thousand (5,000) square feet of air

conditioned space, shall be built to satisfy, at a minimum, the most current USGBC LEED Silver standard.

(b) For any renovation of existing municipal buildings, all building materials replaced shall be done so with consideration of their energy efficiency ratings as recognized by the USGBC for their sustainable qualities, and with recycled products whenever available and appropriate.

(c) In the event that it is determined by the administration that it is not feasible to construct or renovate a building or structure to this standard, compliance with this section shall not be required and the CGO will identify the project in his/her report to city council.
(Ord. No. 2008-112, § 4, 6-26-08)

Sec. 17.5-204. Incentives to encourage sustainable construction and re-development.

(a) As of October 1, 2008, a process will be instituted by the city for providing a grant which would provide a partial rebate of permit fees, if funds are made available through the budget process on a yearly basis. Property owners who receive a permit for single family or multi family homes or for commercial projects, after the date which this program is instituted, may be eligible if the structure constructed is appropriately certified as a green structure by the USGBC or FGBC.

- (1) For newly constructed single family residential construction or for major renovation of an existing single family home, the structure must be built and satisfy all the requirements of the current Green Home Designation Standards of the Florida Green Building Coalition. Upon receipt of evidence of this certification, the city will rebate fifty (50) percent of the building permit fees paid.
- (2) For newly constructed commercial and multifamily construction or for major renovations of such existing structures, the structure must be built and satisfy all the requirements of the most current (USGBC LEED (Leadership in Energy and Environmental Design) standard. Upon re-

ceipt of evidence of this certification of the structure, the city will rebate a percentage of the building permit fees paid as follows:

- a. *LEED Platinum Certified*—Eighty (80) percent.
 - b. *LEED Gold Certified*—Sixty (60) percent.
 - c. *LEED Silver Certified*—Forty (40) percent.
 - d. *LEED Certified*—Twenty (20) percent.
- (3) The city will designate within its budget a specific amount per year for residential projects and a specific amount per year for commercial projects. Grants will be awarded on a first-come-first-served basis as the funds allow.

(Ord. No. 2008-112, § 5, 6-26-08)

Sec. 17.5-205. Green building initiatives for affordable housing.

All multifamily and single family homes constructed after October 1, 2008, through any of the city's affordable housing programs will be encouraged to utilize the Florida Green Building Coalition's specifications for green building certification, Florida Energy Star and Florida Water Star appliances and principles. When evaluating the extent to which these specifications, appliances and principles can be used, consideration of federal and state rules, regulations, funding and programs will be included in the evaluation. If the administration determines that compliance with these specifications, appliances, and principles is not feasible for the affordable housing structure to attain, the administration may waive compliance with this section. The CGO will identify the project in his/her report to city council.

(Ord. No. 2008-112, § 6, 6-26-08)