

Sec. 32-888. - Public school concurrency.

- (a) *School facilities.* There shall be school facilities sufficient to provide for the needs of the development proposed by the application and for other developments in the impact area which have certificates of occupancy or for which valid building permits are currently in effect or for which school capacity has been reserved.
- (b) *Public school concurrency.* Pursuant to the Public School Facilities Element (PSFE) of the City of Hallandale Beach Comprehensive Plan and the Amended Interlocal Agreement (ILA), the city, in collaboration with the Broward County School Board, shall ensure public school facilities will be available for current and future students, consistent with available financial resources and adopted level of service standards, and such facilities will be available concurrent with the impact of proposed residential development.
 - (1) *Applications subject to a public school concurrency determination.* The city shall not approve an application for a residential plat, replat, plat note amendment, findings of adequacy, or any unincorporated area site plan (application) that generates one or more students or is not exempt or vested from the requirements of public school concurrency, until the school board has reported that the school concurrency requirement has been satisfied.
 - (2) *Exemptions and vested development.*
 - a. The following residential applications shall be exempt from the requirements of public school concurrency:
 - 1. An application which generates less than one student at each level in the relevant concurrency service area. Such development shall be subject to the payment of school impact fees.
 - 2. An application for age-restricted communities with no permanent residents under the age of 18. Exemption for an age-restricted community shall only be available subject to a recorded restrictive covenant prohibiting the residence of school-aged children in a manner consistent with federal, state, or local laws or regulations.
 - 3. A development of regional impact (DRI) with a development order issued before the effective date of Senate Bill 360 or an application submitted before May 1, 2005.
 - 4. As may otherwise be exempted by Florida Statutes, including but not limited to applications within municipalities which meet specific qualifying criteria outlined in the applicable statute and approved by the school board.
 - b. The following residential applications shall be vested from the requirements of public school concurrency:
 - 1. Any application located within a previously-approved comprehensive plan amendment or rezoning which is subject to a mitigation agreement in accordance with the following:
 - i. The mitigation to address the impact of the new students anticipated from the development has been accepted by the school board consistent with School Board Policy 1161, entitled "Growth Management," as may be amended from time to time; and
 - ii. A declaration of restrictive covenants executed and recorded by the developer or the development is located within a boundary area that is subject to an executed and recorded tri-party agreement consistent with School Board Policy 1161, as may be amended from time to time; and
 - iii. The applicant shall provide a letter from the school board or other evidence acceptable to the city verifying [subsections] a. and b. above. Other evidence may include documentation as specified in the tri-party agreement.

2. Any application which is included within a residential plat or development agreement for which school impacts have been satisfied for the dwelling units included in the proposed application. This includes any unexpired application approved by the city between February 2, 1979, and the effective date of the PSFE and this section. In the transmittal of an application to the school board, the city shall include written information indicating that the units in the application are vested.
- c. To be exempt or vested from the requirements of public school concurrency, an applicant seeking such a determination shall be required to submit documentation with the application which shall include written evidence sufficient to verify that the subject development meets the exemptions states herein and, as such, is exempt from the requirements of public school concurrency.
- (3) *Level of service standards.* The level of service standard (LOS) shall be 110 percent of the permanent Florida Inventory of School Housing (FISH) capacity for each concurrency service area. The LOS shall be achieved and maintained within the period covered by the five-year schedule of capital improvements contained in the effective five-year adopted District Educational Facilities Plan (DEFP).
 - (4) *Concurrency service area (CSA).* The areas for implementation of public school concurrency in the city shall be known as concurrency service areas (CSAs), which shall be the approved school boundaries for elementary, middle and high schools, as annually adopted by the school board. For the purpose of public school concurrency, such CSAs shall be effective on the first day of the school year, and end on the last day before the beginning of the next school year.
 - (5) *Student generation rates.* The effective adopted student generation rate(s) contained herein shall be utilized to determine the potential student impact anticipated from the residential development proposed in submitted applications.
 - (6) *Review procedure.*
 - a. Public school impact application (PSIA). Any applicant submitting an application with a residential component that is not exempt or vested is subject to school concurrency and shall be required to submit a public school impact application (PSIA) for review by the school board. Evidence of acceptance of the PSIA and payment of the applicable PSIA fee to the school board shall be required prior to acceptance of the application by the city.
 - b. School capacity availability determination (SCAD) letter.
 1. No residential application or amendments thereto shall be approved by the city, unless the residential development is exempt or vested from the requirements of public school concurrency, until a SCAD letter has been received from the school board confirming that capacity is available; or, if capacity is not available, the proportionate share mitigation has been accepted by the school board. The SCAD letter shall be sent to the applicant, the Broward County Development Management Division, and the city with jurisdiction over the subject development, no later than 45 days after acceptance of the PSIA by the school board.
 2. The school board shall determine the potential student impact from proposed residential development on the applicable CSA by performing the review procedure specified in School Board Policy 1161, as amended.
 3. If the school board determines that sufficient capacity is available at the adopted LOS to accommodate students anticipated from the development, the school board shall issue a SCAD letter indicating that adequate school facilities exist to accommodate the student impact and the proposed development satisfies public school concurrency requirements.
 4. If the school board determines that sufficient permanent capacity is not available at the adopted LOS to accommodate students anticipated from the development, the SCAD letter shall state that the development has not satisfied public school

concurrency requirements and the basis for such determination. The applicant shall have 30 days to propose proportionate share mitigation to the school board.

5. If the applicant proposes proportionate share mitigation within the 30-day deadline, upon the subsequent acceptance of the proposed mitigation by the school board, and upon the execution of a legally-binding document among the school board, the city, and the applicant, an amended SCAD letter shall state that adequate capacity anticipated from the accepted proportionate share mitigation will be available to accommodate the student impact anticipated from the proposed development and that the proposed development satisfies public school requirements. The total amount committed for any mitigation option shall not be less than the school impact fees due for the proposed units, as calculated based upon the adopted school impact fee schedule contained herein. The school impact fee due for the development shall be considered included in the total proportionate share mitigation amount due or paid. If the proportionate share mitigation is not accepted by the school board, the amended SCAD letter shall state the basis upon which the mitigation proposal(s) was rejected and why the development is not in compliance with public school concurrency requirements.
6. An applicant adversely impacted by a SCAD determination may appeal such determination by written request to the school board within the designated 30-day time period. A timely request for an appeal shall stay the requirement for an applicant to propose proportionate share mitigation until the appeal has been resolved.
7. If an applicant or approval expires, the SCAD letter will no longer be valid.

(7) *Expiration of concurrency/vesting.*

- a. The public school concurrency approval for a residential application shall expire if development does not commence, as outlined in [subsection] b. below, within five years following the date of city commission approval.
- b. If a residential application received approval, the development and anticipated students shall be considered vested for up to five years beginning from the date the developer received approval from the city. Vesting of a residential application beyond five years requires that one of the following conditions is met within the five-year period: (1) the issuance of a building permit for a principal building and first inspection approval; or (2) substantial completion of project water lines, sewer lines, and the rock base for internal roads. If the development was denied, the school board shall deduct students associated with the development from its database.

(Ord. No. 2008-08, § 1, 5-7-2008)

Editor's note— The subsections of § 32-888 have been renumbered for purposes of classification, at the editor's discretion, as set out herein.