

ORDINANCE NO. 2017-04-13

An ordinance concerning concurrency standards and amending Clark County Code (CCC) Section 40.350.020 Transportation Concurrency Management System.

WHEREAS, the Council finds and concludes that Clark County code attempts to delay development in areas served by roads failing concurrency until the condition can be improved or mitigated; and

WHEREAS, recent amendments applied to intersections may not achieve that goal; and,

WHEREAS, developments may be approved, through exemptions in the Road Standards, even though served by roads that have failed to demonstrate acceptable levels of service; and

WHEREAS, RCW 36.70A.390 and RCW 35.63.200 authorize the Board to adopt an interim zoning ordinance without holding a public hearing, provided, a duly-noticed public hearing is held within 60 days of adoption; and

WHEREAS, the Board approved Ordinance 2016-10-11 on October 26, 2016 extending the interim zoning ordinance for 6 months to further the public health, safety, and welfare; and,

WHEREAS, Ordinance 2016-10-11 directed staff to proceed with the evaluation, receipt of public comment, and scheduling proceedings with the Development and Engineering Advisory Board and Planning Commission; and,

WHEREAS, on January 27, 2017, Clark County Department of Community Planning submitted the required sixty day notification of intent to adopt these provisions to the State Department of Commerce and other state agencies. The Washington State Department of Transportation provided comments; and,

WHEREAS, on March 1, 2017, Clark County published legal notice of the Clark County Planning Commission public hearing to be held on March 16, 2017; and,

26 WHEREAS, on March 2, 2017, Clark County Department of Community Planning published
27 a SEPA determination of non-significance (DNS), and by the end of the comment period, no person
28 provided comments regarding the DNS to the county; and,

29 WHEREAS, on March 2, 2017, the Development and Engineering Advisory Board
30 deliberated and developed its recommendation to the Board; and

31 WHEREAS, on March 2, 2017, the Clark County Planning Commission held a work session
32 concerning the code amendment at a public meeting, and on March 16, 2017, held a public hearing at
33 which it took public testimony. At that hearing, the Planning Commission deliberated and developed
34 its recommendation to the Board; and,

35 WHEREAS, on April 10, 2017, Clark County published legal notice that the Board would
36 hold a public hearing on April 25, 2017 to consider the code amendment; and,

37 WHEREAS, on April 25, 2017, the Board held a public hearing at which it took public
38 testimony and considered the Planning Commission's recommendations; now, therefore,

39 IT IS HEREBY ORDERED, RESOLVED by the Board Of County Councilors Of Clark
40 County, State Of Washington, as follows:

41 **Section 1. Findings.** The Board hereby adopts as findings and conclusions those facts and
42 conclusions contained in the recitals above.

43 **Section 2. Amendatory.** Sec. 1 (Ex. A) of Ord. 2000-10-03, as most recently amended by
44 Ordinance 2014-08-09 and codified as 40.350.020, are each amended and extended to read:

45 **40.350.020 Transportation Concurrency Management System**

46 A. Purpose.

47 This section implements the requirements in RCW 36.70A.070 that counties:

48 1. Establish level of service standards for arterial and transit routes; and

49 2. Ensure that such standards are met or reasonably funded before new development is
50 approved.

51 B. Applicability.

52 This section applies to applications for subdivision, short subdivision, conditional use permit
53 approvals, and site plan review, except for those site plan reviews for unoccupied utility and wireless
54 communication facilities which have a potential vehicular impact on the level of service of a segment
55 or intersection of either:

56 1. Any county roadway with a comprehensive plan functional classification of arterial
57 or collector; or

58 2. Any state highway of regional significance.

59 C. Review Authority.

60 The review authority shall approve, approve with conditions, or deny proposed developments
61 in accordance with the provisions of this section.

62 D. Transportation Impact Study.

63 1. A transportation impact study shall be required for all development applications in
64 which the proposed development is projected to have an impact upon any affected transportation
65 corridor or intersection of regional significance, unless the development application is exempt from
66 the provisions of this section as provided for in Section 40.350.020(D)(7), or the requirement for a
67 study has been waived by the Public Works Director.

68 2. A transportation impact study shall include, at a minimum, an analysis of the
69 following elements:

70 a. Trip generation, modal split, distribution, and assignment for the proposed
71 development; and

72 b. An analysis of the projected impact of the proposed development upon the
73 current operating level and safety of affected transportation corridors and
74 intersections of regional significance. The analysis shall also include an
75 accounting of trips assigned to all collector and arterial roadways.

76 3. A transportation impact study shall be prepared by and/or under the supervision of a
77 registered professional engineer in the state of Washington.

78 4. A transportation impact study shall be based on traffic counts obtained within twelve
79 (12) months of the fully complete date of the development application as determined under Sections
80 40.510.010(B), 40.510.020(C), and 40.510.030(C). The traffic counts shall reflect representative
81 traffic conditions on collector and arterial roadways, and at intersections of regional significance.
82 Intersections of regional significance are those intersections where at least three (3) legs are collector
83 or arterial classification roadways.

84 5. A transportation impact study shall not be required to analyze impacts on affected
85 transportation corridors or intersections of regional significance located at least the following
86 distances from the proposed development (as measured by straight-line distance):

- 87 a. Fifty (50) or less new peak period trips at development site: one (1) mile;
- 88 b. Fifty-one (51) to two hundred fifty (250) new peak period trips at
89 development site: two (2) miles;
- 90 c. Two hundred fifty-one (251) or more new peak period trips at development
91 site: three (3) miles.

92 6. The Public Works Director reserves the right to require an applicant to provide
93 additional data and/or analysis as part of a particular transportation impact study, where the Public
94 Works Director determines that additional information or analysis is required to implement the
95 standards and requirements contained in this section.

96 7. No traffic impact study shall be required, pursuant to the provisions of this section,
97 where the proposed development will generate less than ten (10) peak period vehicle trips. However,
98 these proposed developments are still subject to concurrency reviews and require concurrency
99 approvals.

100 8. Upon the written request of an applicant, the Public Works Director may waive the
101 requirement for a transportation impact study, or limit the scope of analysis and required elements of
102 a traffic impact study where the Public Works Director determines that the potential transportation
103 impacts upon the affected transportation corridor(s) and/or intersection(s) of regional significance
104 have been adequately analyzed in prior research or reports and/or are not projected to cause a
105 reduction in the operating level of affected transportation corridors and/or intersections.

106 E. Requirements for Concurrency Approval.

107 1. Each development application subject to the provisions of this section shall require a
108 concurrency review. No development application may be approved by the review authority until such
109 time as a concurrency approval or conditional concurrency approval has been issued by the Public
110 Works Director.

111 2. The concurrency determination for multiple development applications impacting the
112 same transportation corridors or intersections shall be tested chronologically in accordance with the
113 respective applications' fully complete dates as determined under Sections 40.510.010(B),
114 40.510.020(C), and 40.510.030(C) (but not the contingent vesting provisions of Sections
115 40.510.010(D), 40.510.020(G), and 40.510.030(G)). For the purpose of this subsection only, the fully
116 complete date for an application delayed in processing for sixty (60) days or longer due to actions or
117 inaction of the applicant (as determined by the responsible official) shall be adjusted according to the
118 length of such delay. Preapplication concurrency reviews shall be tested in the order they are
119 received.

120 3. The Public Works Director shall issue a concurrency approval where the Public
121 Works Director determines that the proposed development's impacts upon all affected transportation

122 corridors and intersections of regional significance do not result in the operating levels for the
123 transportation corridors, signalized intersections, and unsignalized intersections falling below the
124 adopted level of service standards established in Section 40.350.020(G).

125 4. A concurrency review and approval shall not be required for those affected
126 transportation corridors and intersections of regional significance further away than the distances
127 identified in Section 40.350.020(D)(5).

128 5. The Public Works Director may approve and condition mitigation (if volunteered by
129 the applicant) where the Public Works Director determines that the proposed development's
130 projected impacts upon an affected transportation corridor or intersection of regional significance can
131 be offset by the mitigation such that the operating levels will not further deteriorate because of the
132 additional traffic generated by the proposed development. The review authority may approve a
133 development when the Public Works Director determines that achieving the level of service
134 standards would cause significant negative environmental impacts as identified in a SEPA review.

135 6. Appeals to the determination of the Public Works Director with respect to
136 concurrency shall be made in accordance with Sections 40.510.010(E), 40.510.020(H), and
137 40.510.030(H). Applications reviewed as Type I and Type II procedures shall be appealed as Type II
138 procedures. For applications reviewed as Type III procedures, the Public Works Director's
139 determination shall be treated as a recommendation to the review authority.

140 F. Determination of Operating Levels.

141 The operating level for a transportation corridor, signalized intersection, and/or unsignalized
142 intersection shall be defined as the traffic characteristics of those roadways and intersections with
143 consideration of the following factors:

- 144 1. The existing traffic levels on the roadways and intersections;
- 145 2. Any mitigation measures proposed by the applicant.
- 146 a. For site plans, mitigation measures shall be completed and/or implemented
147 prior to occupancy or commencement of the use.
- 148 b. For land divisions, mitigation measures shall be completed and/or
149 implemented prior to:
- 150 (1) Final plat approval; or
- 151 (2) Issuance of the first building permit for any newly recorded lot,
152 provided:
- 153 (a) The improvements are secured by a performance bond or
154 financial guarantees acceptable to the county prior to final
155 plat.

- 156 (b) Construction plans shall be approved, and any needed right-
157 of-way for the mitigation improvements have been obtained
158 prior to final plat approval.
- 159 (c) Model home” building permits issued subject to the
160 requirements of Section 40.260.175 do not require bonding or
161 right-of-way acquisition necessary for transportation
162 concurrency mitigation measures.

163 3. Any mitigation measures conditioned to other approved developments which will be
164 completed and/or implemented prior to occupancy of the proposed development;

165 4. The traffic impacts of the proposed development on the affected transportation
166 corridors and intersections;

167 5. The traffic impacts of other approved developments not yet fully built-out on the
168 affected transportation corridors and intersections;

169 6. Any improvements being implemented as part of the county’s transportation
170 improvement program that are reasonably funded and scheduled for completion of construction
171 within six (6) years of the final date for a decision upon the development application;

172 7. Any capacity which has been assigned or reserved to other and/or future
173 developments pursuant to the terms of a development agreement or capacity reservation authorized
174 and executed under the provisions of this chapter;

175 8. Any background traffic growth or traffic from developments exempt from the
176 requirements of this chapter that the Public Works Director determines could have an impact on the
177 operating level of the transportation corridors or intersections;

178 9. Any other factors that the Public Works Director has determined could have an
179 impact on the operating level of the transportation corridors or intersections.

180 G. Level of Service Standards.

181 1. Level of service or LOS standards shall be as follows:

182 a. The maximum volume to capacity ratio for each roadway segment shall not
183 exceed nine-tenths (0.9), when measured independently for each direction of
184 travel. Measurements shall be made for all collector and arterial roadway
185 segments located within the Vancouver Urban Growth Area, but outside of
186 the City of Vancouver. Measurements shall also be made for state highways
187 of regional significance. In calculating the volume to capacity ratio, the
188 volume shall be determined based on the factors described in Section
189 40.350.020(F). In determining the capacity for roadways built-out to county
190 standards, the capacity shall be based on the factors described in Table
191 40.350.020-1, Roadway Capacities. For roadways not fully built-out to
192 county standards, the capacity shall be determined based on the current

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roadway condition. For roadways with lane widths twelve (12) feet and greater, and with paved shoulder widths two (2) feet and greater, the lane capacity shall be eight hundred (800) vehicles per hour. For roadways with lane widths between eleven (11) and twelve (12) feet and with paved shoulder widths two (2) feet and greater, the lane capacity shall be seven hundred (700) vehicles per hour. For roadways with lane widths less than eleven (11) feet, the lane capacity shall be six hundred (600) vehicles per hour.

Table 40.350.020-1 Roadway Capacities				
Roadway Type			County Designation	Single Direction Capacity/Hour
Urban	Arterials	Parkway	Pa-4b	2000
		Principal	Pr-4cb	1800
		Minor, 4-lane	M-4cb	1800
		Minor, 2-lane	M-2cb	900
	Collector	Urban	C-2cb	900
		Urban	C-2	800
Urban		C-2b	800	
Rural	Arterial		RA	800
	Collector	Major	R-2	800
		Minor	Rm-2	800

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b. Individual movements at each signalized intersection of regional significance in the unincorporated county shall not exceed an average of two (2) cycle lengths or two hundred forty (240) seconds of delay (whichever is less).

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c. All unsignalized intersections of regional significance in the unincorporated county shall achieve LOS E standards or better (if warrants are not met). If warrants are met, unsignalized intersections of regional significance shall achieve LOS D standards or better. ~~The signalization~~ Intersection control or mitigation of unsignalized intersections shall be at the discretion of the Public Works Director and shall not obligate the county to meet this LOS standard. However, proposed developments shall not be required to mitigate their impacts in order to obtain a concurrency approval unless:

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(1) The proposed development adds at least five (5) peak period trips to a failing intersection approach; and,

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(2) ~~The projected volume to capacity ratio for the worst lane movement on the approach with the highest delay exceeds nine tenths (0.9) during the peak traffic period; and~~

216 ~~(2)(3). That same~~ The worst movement, on the failing approach is worsened
217 by the proposed development. In determining whether the movement
218 is worsened, the Public Works Director shall consider trip volume,
219 delay, and any other relevant factors.

220 d. The LOS standards identified in this subsection shall be applied during peak
221 period traffic conditions, as defined by the responsible official and published
222 in the administrative manual.

223 2. The LOS standards established in this subsection shall be applied and interpreted as
224 stated in the administrative manual prepared pursuant to Section 40.350.020(N).

225 3. The LOS standards and the operating levels for each transportation corridor and
226 intersection of regional significance shall be evaluated and reviewed on an annual basis by the board.

227 4. Notwithstanding the provisions for the annual review of LOS standards pursuant to
228 this section, the board reserves the authority to enact and renew emergency moratoria and interim
229 zoning or other official controls upon development approvals affecting designated transportation
230 corridors and intersections of regional significance pursuant to RCW 36.70A.390, and may specify
231 qualifications or conditions for the application of such moratoria and interim zoning or other official
232 controls.

233 H. Exemptions from Concurrency Requirements.

234 The following types of development applications shall not be subject to a concurrency denial:

235 1. K – 12 public schools incorporating commitments to commute trip reduction
236 consistent with Chapter 5.50;

237 2. Fire/police stations;

238 3. Public transit facilities;

239 4. Neighborhood parks.

240 I. Concurrency Survey.

241 1. For purposes of monitoring the cumulative transportation-related impacts of
242 developments which are exempt from the requirements of this section, such development
243 applications shall be required to submit a concurrency survey for review by the Public Works
244 Director.

245 2. Submittals of concurrency surveys shall be made upon written forms provided by the
246 Director and shall be filed with the Public Works Director. The concurrency survey shall indicate, at
247 a minimum:

248 a. The type and location of the development;

- 249 b. An identification of all affected transportation corridors and intersections of
250 regional significance;
- 251 c. The specific reason the development is exempt from the provisions of this
252 section;
- 253 d. An estimate of the projected total peak period trips that will be generated by
254 the development; and
- 255 e. An estimate of the date of occupancy of the development.

256 3. The Public Works Director shall review and approve the concurrency survey, and
257 may require the submission of additional information prior to approving the survey.

258 4. No development application may be approved by the review authority until such time
259 as the applicant has complied with the requirements of this subsection, and the Public Works
260 Director has approved the concurrency survey.

261 J. Reservation of Capacity.

262 1. Upon issuance of a concurrency approval by the Public Works Director, the
263 transportation capacity allocated by the Public Works Director to the development application shall
264 become encumbered capacity. This encumbered capacity shall not be considered for use by another
265 development application until such time as the concurrency approval expires pursuant to Section
266 40.350.020(J)(4).

267 2. Upon issuance of a development approval by the review authority, this encumbered
268 capacity shall become reserved capacity and shall not be considered for use by another development
269 application.

270 3. Reserved capacity shall not be transferable to another development upon another site.
271 Reserved capacity from a previous development approval shall not be transferable to a different land
272 use development upon the same site.

273 4. Concurrency approvals shall be valid for the same period of time as the development
274 approval, and shall expire upon the date the development approval expires. Notwithstanding the
275 provisions of this subsection, a concurrency approval shall expire upon the date the development
276 application for which the concurrency approval was required is:

277 a. Withdrawn by the applicant;

278 b. Denied approval by the review authority; provided, that for purposes of this
279 section, an application shall not be deemed to be denied by the review
280 authority until a final decision has been issued pursuant to any administrative
281 appeal under Sections 40.510.010(E), 40.510.020(H), and 40.510.030(H); or
282 until a final decision has been rendered by a superior court with competent
283 jurisdiction, where such judicial appeal has been filed in a timely way; or

284 c. Not found to be fully complete within one hundred eighty (180) days of a pre-
285 application concurrency approval.

286 K. Capacity Reservation for Development Agreements.

287 The board may reserve capacity, prior to approval of a development application by the
288 review authority, through the approval of a development agreement authorized and executed under
289 the provisions of RCW 36.70B.170. This reserved capacity shall be accounted for in establishing and
290 reviewing LOS standards and in the determination of operating levels for transportation corridors and
291 intersections.

292 L. Capacity Reservation for a Preferred Land Use.

293 1. Where the board finds that there is a significant public interest or need to provide for
294 the approval of a preferred land use that would affect the transportation corridors and/or intersections
295 of regional significance, the board following a public hearing may provide for the reservation of
296 capacity for such land use. The board may direct, by ordinance, that the transportation capacity
297 necessary to accommodate such land use be reserved for the future approval of such land uses.

298 2. Such reservation shall be for an identified period of time and shall be subject to
299 annual review by the board. This reserved capacity shall be accounted for in establishing and
300 reviewing LOS standards and in the determination of operating levels for the transportation corridors
301 and intersections.

302 M. Deferral of Reserved Capacity.

303 If reserved trips from a development agreement (Section 40.350.020(K)) are not scheduled to
304 be utilized for at least five (5) years, the board by administrative resolution may direct that all or a
305 portion of such out-year trips be excluded in concurrency testing of other project applications where
306 anticipated transportation improvement projects, whether or not deemed reasonably funded, are
307 expected to increase capacity on the impacted corridor(s)/intersection(s) by at least the volume of the
308 out-year trips so deferred. When deferring use of reserved trips, the reserved trips will remain vested
309 with the original party to the developer agreement and will be available for use by that party
310 consistent with any conditions in the development agreement.

311 N. Establishment of Administrative Manual.

312 1. The Public Works Director shall establish and adopt the methodology and criteria to
313 be used to identify transportation corridors and evaluate the operating level for each transportation
314 corridor and intersection of regional significance.

315 2. The Public Works Director shall establish and adopt the methodology and criteria to
316 be used to identify and evaluate the transportation impacts of developments which are required to be
317 addressed in the transportation impact studies required by Section 40.350.020(D).

318 3. The Public Works Director shall publish and regularly update an administrative
319 manual setting forth the methodology and criteria adopted for the purposes described in Sections
320 40.350.020(N)(1) and (N)(2).

321 4. A copy of the most recent version of the administrative manual shall be made
322 available for public inspection and review.

323 5. The provisions of the administrative manual shall be consistent with and implement
324 the provisions of this section. To the extent the provisions of the manual are inconsistent with the
325 provisions of this section, the provisions of this section shall control.

326 O. Mitigated Level of Service for Master Planned Developments.

327 Mitigated level of service standards may be established, for master planned industrial,
328 university or office uses, which the review authority finds:

329 1. Are approved for master plan development under Section 40.520.070 for properties
330 zoned light industrial (IL) or are approved as a master development plan under Section 40.230.050
331 for properties zoned university (U), or if previously approved, are found to substantially comply with
332 Section 40.230.050 or 40.520.070;

333 2. Are served by a transportation corridor which incorporates measures to mitigate
334 traffic congestion, such as high occupancy vehicle lanes, fifteen (15) minute or better peak hour
335 transit service, freeway ramp metering, or traffic signal coordination; and

336 3. Incorporates a commitment to commute trip reduction for all industrial, university
337 and office on-site employers, consistent with Chapter 5.50.

338 P. Application of SEPA to the Director's Determinations.

339 Any determination made by the Public Works Director pursuant to this section shall be an
340 administrative action that is categorically exempt from the State Environmental Policy Act.

341 **Section 3. Instructions to the clerk.**

342 The Clerk to the Board shall:

- 343 1. Record a copy of this ordinance with the Clark County Auditor.
344 2. Transmit a copy of this ordinance to the State Department of Commerce within ten days
345 of its adoption
346 3. Cause notice of adoption of this ordinance to be published forthwith pursuant to RCW
347 36.70A.290
348 4. Transmit a copy of this ordinance to Code Publishing, Inc. to update the electronic
349 version of the Clark County Code.

350 Section 4. Note to Code Reviser. Sections 1 and 3 are not subject to codification.

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354 ADOPTED this 25th day of April, 2017.

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BOARD OF COUNTY COUNCILORS
FOR CLARK COUNTY, WASHINGTON

357 Attest:

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Rebecca Jitta
Clerk to the Board

Marc Boldt
Marc Boldt, Chair

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362 Approved as to Form Only

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ANTHONY GOLIK

Jeanne E. Stewart, Councilor

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Prosecuting Attorney

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By Christine M. Cook
Christine M. Cook

Julie Olson, Councilor

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Christine M. Cook

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Deputy Prosecuting Attorney

John Blom, Councilor

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Eileen Quiring, Councilor

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