

**BOARD OF COUNTY COMMISSIONERS  
COUNTY OF KITTITAS  
STATE OF WASHINGTON**

ORDINANCE No. 2011- 011

**AMENDING KITTITAS COUNTY CODE CHAPTER 12.10,  
TRANSPORTATION CONCURRENCY MANAGEMENT  
FOR THE PURPOSE OF COMPLIANCE WITH ORDER NUMBER 10-1-0013 OF THE GROWTH  
MANAGEMENT HEARINGS BOARD - EASTERN WASHINGTON REGION**

- Whereas,** Kittitas County opted into the Growth Management Act, RCW 36.70A, voluntarily on December 27, 1990, through Resolution 90-138; and
- Whereas,** The Kittitas County GMA Comprehensive Plan was originally adopted on July 26, 1996 by the Kittitas County Board of County Commissioners; and
- Whereas,** The Washington State Legislature, through RCW 36.70A.070(6)(b), requires counties planning under the act to adopt and enforce ordinances that ensure that adequate transportation facilities are provided concurrently with growth; and
- Whereas,** A Petition for Review was filed with the Growth Management Hearings Board - Eastern Washington Region (Hearings Board) by Futurewise, RIDGE and Kittitas County Conservation; and
- Whereas,** The petition is formally known as Case No 10-1-0013; and
- Whereas,** The statement of the issue that the Hearings Board considered for this case was the following:
- Does Kittitas County's failure to adopt a transportation concurrency requirement in its implementing regulations violate RCW 36.70A.020 (12), 36.70A.040(4), and 36.70A.070(6)?*
- Whereas,** On June 6, 2011 the Hearings Board Issued its Final Decision and Order (FDO) regarding Case No 10-1-0013 finding that Kittitas County has failed to adopt transportation concurrency regulations as required by 36.70A.040(4), and 36.70A.070(6)(b); and
- Whereas,** The Hearings Board issued an order for Kittitas County to adopt transportation concurrency regulations, as required by 36.70A.070(6) within 180 days; and
- Whereas,** Following the Hearings Board FDO Kittitas County has been actively and diligently seeking to develop transportation concurrency regulations by proposing amendments to Kittitas County Code Chapter 12.10 Transportation Concurrency Management; and
- Whereas,** The proposed amendments are consistent with the goals and policies of the Kittitas County Comprehensive Plan; and
- Whereas,** The proposed amendments are consistent with the Growth Management Act; and
- Whereas,** The proposed amendments are consistent with the regional transportation plan; and

- Whereas,** After due notice, the Planning Commission met on October 24, 2011 to hear testimony and take public comment on the proposed amendments; and
- Whereas,** The Planning Commission deliberated and made recommendations to the Board of County Commissioners regarding the proposed amendments on October 24, 2011; and
- Whereas,** Kittitas County submitted its proposed amendments to the Department of Commerce on October 12, 2011 as required by statute; and
- Whereas,** The Department of Commerce indicated their support on October 17, 2011 of the proposed amendments; and
- Whereas,** Kittitas County filed its SEPA checklist on October 21, 2011, and issued a determination of nonsignificance on November 11, 2011; and
- Whereas,** Kittitas County published notice of a public hearing on November 3, 2011 and November 10, 2011 to consider the proposed amendments; and
- Whereas,** The Board of Kittitas County Commissioners did hold a public hearing on November 15, 2011, allowing for early and continuous public participation, during which testimony was taken and documentary evidence received from those persons wishing to be heard and the Board deliberated on the proposed amendments; and


**NOW, THEREFORE, BE IT ORDAINED** that the Board of Kittitas County Commissioners, after due deliberation and in the best interest of the public, does hereby approve the amendments to the Kittitas County Code Chapter 12.10 Transportation Concurrency Management for compliance purposes as represented in Exhibit A.

Adopted this 15<sup>th</sup> day of November, 2011, at Ellensburg, Washington.

**BOARD OF COUNTY COMMISSIONERS  
KITTTAS COUNTY, WASHINGTON**

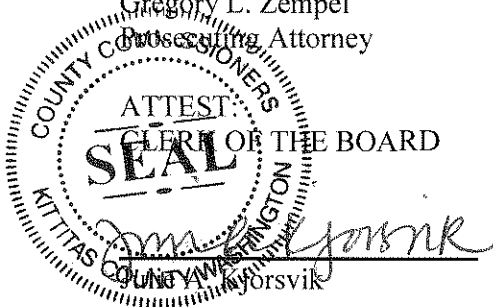
Approved as to Form:

\_\_\_\_\_  
Neil Caulkins,  
Civil Deputy signing for  
Gregory L. Zempel  
Prosecuting Attorney

  
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Commissioner, Chairman

  
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Commissioner, Vice-Chairman

  
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Commissioner



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## EXHIBIT A

### Chapter 12.10 TRANSPORTATION CONCURRENCY MANAGEMENT

#### Sections

- 12.10.010 Purpose.
- 12.10.020 Authority.
- 12.10.030 Level of Service Standards.
- 12.10.040 Concurrency Evaluation.
- 12.10.050 Concurrency Determination.
- 12.10.060 Determination of Concurrency Finding.
- 12.10.070 Administrative Reconsideration.
- 12.10.080 Appeal.
- 12.10.090 Definitions.

#### **12.10.010 Purpose.**

The purpose of this chapter is to ensure that adequate transportation facilities are available or provided concurrent with development, in accordance with the Growth Management Act (RCW 36.70A.070) and consistent with WAC 365-195-510 and 365-195-835. No development permit shall be issued except in accordance with this chapter.

#### **12.10.020 Authority.**

The public works director, or his/her designee, shall be responsible for implementing and enforcing this chapter.

#### **12.10.030 Level of Service Standards.**

The transportation level of service standards for purposes of concurrency review are described and contained in the Kittitas County Comprehensive Plan, Long Range Transportation Plan and any adopted modifications.

#### **12.10.040 Concurrency Evaluation.**

##### A. Application

1. The County review of all applications for development permits shall include a concurrency evaluation.
2. The County shall monitor what the impact of approving concurrency will be on the capacity of transportation facilities.
3. A concurrency evaluation shall be required for all development applications in which the proposed development is projected to have an impact upon any affected transportation corridor or intersection. A transportation impact analysis (TIA) shall be required for all development that will generate more than nine (9) peak hour vehicle trips unless the requirement for a study has been waived by the Public Works director.
4. The TIA shall be prepared by and/or under the supervision of a registered engineer in the State of Washington.
5. To establish the scope of the TIA, the applicant shall follow the Public Works Department TIA guidelines and shall provide a preliminary, limited scope analysis documenting the estimated trip generation and distribution for the proposed development application. The director or his designee will review and adjust, if necessary, this information for use in establishing the analysis locations for the TIA for the concurrency evaluation. The TIA shall, at a minimum, provide the following information for the identified concurrency locations:

- a. Number of peak hour trips generated by the development according to the ITE trip generation manual or other method approved by the director;
  - b. Anticipated trip distribution;
  - c. The current calculated level of service of all impacted transportation facilities;
  - d. The future calculated level of service of all impacted transportation facilities, as identified by the county, incorporating traffic volumes from the proposed development;
  - e. Any proposed mitigation; and
  - f. The future calculated level of service of all impacted transportation facilities with the incorporation of proposed development traffic volumes and any proposed mitigation.
  - g. Any adverse effects or safety hazards that are created or worsened by trips generated by the development and the effect these trips may have on the structural integrity of the transportation facilities.
6. The TIA shall be based on traffic counts obtained within twelve (12) months of the fully complete date of the development application as determined under Section 15A.03.040. The traffic counts shall reflect representative traffic conditions within transportation corridors and at intersections.
  7. The Public Works director reserves the right to require an applicant to provide data and/or analysis as part of a particular TIA, where the Public Works director determines that additional information or analysis is required to implement the standards and requirements contained in this section.
  8. The concurrency evaluation and determination shall be completed prior to:
    - a. Issuance of administrative approval/denial of the project permit if SEPA review is not a requirement of the project; or
    - b. Issuance of the DNS, MDNS or DS if SEPA review is a requirement of the project; or
    - c. Issuance of the staff report to the hearings examiner if there is a hearing before the hearings examiner and SEPA review is not a requirement of the project.
  9. Development permits for phased developments shall have the concurrency evaluation completed for the entire project. A developer may elect to have the concurrency evaluation undertaken for less than the entire project if and only if:
    - a. The director agrees to such limited evaluation; and
    - b. Each phase shall include all of the infrastructure to service that phase; and
    - c. There is a written note included in the preliminary approval for such phased development that the traffic concurrency evaluation is limited only to the specific phases for which approval has been provided.
  10. Upon the written request of an applicant, the Public Works director may waive the requirement for a TIA where potential transportation impacts upon the affected transportation corridor(s) and/or intersections have been adequately analyzed in prior research or reports and/or are not projected to cause a reduction in the operating level of affected transportation corridors and/or intersections. Applicants must provide justification for their request to include, but not be limited to, the number of trips that will be generated by the development, where these trips will access transportation facilities, and the distribution of the trips when entering onto transportation facilities at multiple access points.
  11. The County may undertake an independent TIA to confirm or revise the results of the applicant's TIA.
  12. The County may reserve capacity on its transportation facilities for future developments considered high priority by the County.

#### **12.10.050 Concurrency Determination.**

The county shall not approve a development permit unless there are adequate transportation facilities to meet the level of service standards for existing and approved uses, based on the forecast peak hour traffic volumes and the committed transportation system. Concurrency requires adequate transportation facilities to be in place at the time of development or that a financial commitment is in place to complete the improvements or strategies needed for adequate transportation facilities within six years.

- A. If the concurrency evaluation shows that the ratio of the forecast peak hour traffic volume to the capacity of each transportation facility is equal to or less than the adopted level of service standard

for each impacted transportation facility, the director shall issue a determination of concurrency finding, according to the provisions of KCC 12.10.060. This determination of concurrency finding shall include a certificate of transportation capacity for developments that are expected to generate nine (9) or more peak hour vehicle trips.

- B. If the concurrency evaluation shows that the ratio of the forecast peak hour traffic volume to the capacity of any transportation facility exceeds the adopted level of service standard for any impacted transportation facility, the concurrency test is not passed and the director shall notify the applicant in writing of the denial finding. The applicant may:
  1. Amend the application within 90 days in such a way to ensure that the ratio of the forecast peak hour traffic volume to the capacity of each transportation facility does not exceed the adopted level of service standard for each impacted transportation facility. To meet the foregoing, amendments may include one or more of the following:
    - a. Modify the project to reduce the impact on affected facilities;
    - b. Phase the project to coincide with planned improvements that will ensure concurrency;
    - c. Mitigate the impacts of the project to ensure concurrency;
    - d. Arrange with the service provider to provide the additional capacity of facilities required; and/or
    - e. Propose transportation strategies that will reduce the demand for capacity;
  2. Ask the director for formal reconsideration of the concurrency evaluation in accordance with the provisions of KCC 12.10.070;
  3. Withdraw the application and reapply for an evaluation when concurrency can be ensured; or
  4. Appeal the denial per KCC 12.10.080.

#### **12.10.060 Determination of Concurrency Finding.**

- A. A determination of concurrency finding shall be issued by the County per the requirements of 12.10.040(8) for the development permit for which a concurrency evaluation was conducted. If applicable, payment of a fee shall be a condition prior to issuing the determination of concurrency finding.
- B. The determination of concurrency finding will include a certificate of transportation capacity for proposed developments that are expected to generate nine (9) or more peak hour vehicle trips. This certificate shall apply only to the specific land uses, densities, intensities and development projects described in the approved development permit. In the event that, subsequent to issuance of the certificate, the approved development is modified to generate lower traffic impacts on the transportation system, the certificate shall be modified to reflect the reduced traffic impact. In no event shall the certificate of transportation capacity be for a greater amount of capacity than is needed for the development proposed in the underlying permit application, except as provided for phased development.
- C. Phasing. The determination of concurrency finding shall be issued for all phases of a development permit, except when the conditions set forth in KCC 12.10.050(A)(9) have been fulfilled. In this case the certificate shall be conditioned to note that certificates are required for future phases. The certificate shall specifically identify the amount, extent and timing of any required traffic mitigation.

- D. **Transferability.** A certificate of transportation capacity is not transferable to other land. The certificate of transportation capacity, once issued, shall become part of the development permit and shall be transferred to new owners of the original land, if and only if the development permit is so transferred to the new owners.
- E. **Capacity Allocations.** The applicant may, as part of a development permit application, designate in writing the amount of capacity to be allocated to portions of the property, such as lots, blocks, parcels, or tracts included in the application. Any such allocation shall be reflected in the certificate of transportation capacity. Capacity may be reassigned or allocated within the boundaries of the original property by application to the director. The director shall amend the certificate accordingly.
- F. **Life Span of Certificate.** A certificate of transportation capacity shall expire when the accompanying development permit expires or is revoked. The certificate may be extended according to the same terms and conditions as the accompanying development permit. If the development permit is granted an extension, so shall the certificate of transportation capacity. If the accompanying development permit does not expire, the certificate of transportation capacity shall be valid for four years from the date of issuance. The director may approve an extension of up to one year.
- G. **Unused Capacity.** Any capacity that is not used because the developer voluntarily surrenders the certificate, decides not to develop, or the accompanying development permit expires, shall be returned to the available pool of capacity.

#### **12.10.070 Administrative Reconsideration.**

- A. The applicant may request reconsideration of the results of the concurrency evaluation within 15 days of the written notification of the evaluation results by filing a formal request for reconsideration specifying the grounds thereof, using forms authorized by the department.
- B. The director shall reconsider the evaluation results and issue a determination within 30 days of the filing of such request either upholding the original determination or amending it.
- C. The results of an administrative reconsideration may be appealed to the Road Variance Committee, as provided by KCC 12.01.130.

#### **12.10.080 Appeal.**

- A. Any appeal of a concurrency finding shall be made to the Road Variance Committee as provided by KCC 12.01.130 within 15 days after issuance of the determination of concurrency finding.
- B. Any appeal shall be accompanied by a fee as defined in the county's fee schedule.

#### **12.10.090 Definitions.**

1. "Adequate transportation facilities" means transportation facilities which have the capacity to serve development while meeting the county's established level of service standards.
2. "Calculated level of service" means the ratio of the forecast peak hour traffic volume to the capacity of a transportation facility.
3. "Capacity" means the estimated directional rate of traffic flow that can be accommodated by a given transportation facility within the peak hour and is expressed in terms of vehicles per hour. The capacity used in the concurrency evaluation is defined by the county and based on the committed transportation system.
4. "Capacity allocation" is a measure of the traffic generated by a development that is assigned to use a transportation facility.

5. "Capacity pool" is a measure of the remaining capacity available on a transportation facility that can be allocated to future developments.
6. "Certificate of transportation concurrency" is the final document issued by Kittitas County, confirming availability and reserving capacity on the county's transportation facilities specific to the proposed development or development permit.
7. "Committed transportation system" means the system of transportation facilities used to calculate the level of service relative to a development proposal. It includes existing transportation facilities and proposed facilities which are fully funded for construction in the most currently adopted six-year transportation improvement program or for which voluntary financial commitments have been secured in an amount sufficient to complete the particular facility improvement. The county may make adjustments to the committed transportation system for corrections, updates, and modifications concerning costs, revenue sources, acceptance of facilities pursuant to dedications consistent with the adopted Comprehensive Plan, or the date of construction (scheduled for completion within the six-year period) of any facility enumerated in the six-year transportation improvement program. The committed transportation system includes:
  - a. County roads;
  - b. State highways and freeways within the county;
  - c. Bus routes;
  - d. Park and ride lot locations;
  - e. Trails, pathways, or other nonmotorized transportation facilities;
  - f. High occupancy vehicle exclusive lanes; and
  - g. Projects to be provided by the state, cities or other jurisdictions may become part of the committed transportation system upon decision of the county.
8. "Change in use" means a modification to an existing building or site to accommodate a more intensive use. A change in use is subject to concurrency determination for the new increase in traffic only.
9. "Concurrency" means that adequate transportation facilities are in place at the time of development or that a financial commitment is in place to complete the improvements or strategies needed for adequate transportation facilities within six years.
10. "Concurrency evaluation" means the process to determine if a proposed development's impact on transportation facilities meets the county's level of service standards set for those affected roadways, as defined in this chapter.
11. "Determination of concurrency" means a determination by the director based on a concurrency evaluation that shows that the development's impacts on the transportation system will not result in the level of service of a transportation facility falling below the adopted level of service standard for the facility.
12. "Department" means the Kittitas County Department of Public Works.
13. "Development permit" means any order, permit or other official action of the county granting, or granting with conditions, an activity that requires federal, state, or local approval for the use or modification of land or its resource. These activities include, but are not limited to, subdivision and short subdivisions; binding site plans; planned unit developments; variances; shoreline substantial development; and conditional use permits. Building or construction permits are not considered for a concurrency determination unless they create a more intensive change in use because the lot sites for building or construction permits have already been evaluated for concurrency during the lot creation process.
14. "Development units" means the proposed quantity of development measured by dwelling units for residential development and square feet for specific nonresidential use categories, which are the basis of the calculations of level of service for the determination of concurrency.
15. "Director" means the public works director, or his/her designee.
16. "Financial commitment" consists of the following:
  - a. Revenue designated in the most currently adopted six-year transportation improvement program for transportation facilities or strategies comprising the committed transportation system. Projects to be used in defining the committed transportation

system shall represent those projects that are identified as funded for construction in the six years of the six-year transportation improvement program;

- b. Revenue from federal or state grants for which the county has received notice of approval; and
  - c. Revenue that is assured by an applicant in a form approved by the county in a voluntary agreement.
17. "Forecast peak hour traffic volume" means a forecast peak hour traffic volume that includes existing traffic, ambient traffic growth, traffic from other future development projects that were applied for prior to the subject development application based on Kittitas County records, and the traffic anticipated from the subject development.
  18. "Growth Management Act" means the Washington State Growth Management Act (Chapter 36.70A RCW) and any adopted amendments.
  19. "ITE trip generation manual" means the manual prepared by the Institute of Transportation Engineers, latest edition, for the purpose of assigning numbers of vehicle trips associated with various land uses.
  20. "Level of service standard" means the transportation level of service standard as adopted in the Kittitas County Comprehensive Plan based on the ratio of forecast peak hour traffic volumes to capacity.
  21. "Mitigation" means transportation demand management strategies and/or facility improvements constructed or financed by a developer which fully offset the subject development's impacts to a facility so that: a.) The level of service for a transportation facility with a preexisting level of service deficiency is not further degraded; or b.) The level of service for a transportation facility without a preexisting level of service deficiency is not reduced below the approved level of service.
  22. "Peak hour project trips" means the traffic estimated by a traffic engineer to be generated by a proposed development during the one-hour period during which the greatest volume of traffic uses the road system.
  23. "Peak hour traffic" means traffic volumes during the one-hour period during which the greatest volume of traffic uses the road system, as identified separately for each segment of a transportation facility.
  24. "SEPA" means the State Environmental Policy Act (Chapter 43.21 RCW) as implemented by Kittitas County.
  25. "Service provider" means the jurisdiction, department or agency responsible for providing the facility.
  26. "Six-year transportation improvement program" means the expenditures programmed by the county for capital purposes over the next six-year period in the six-year transportation improvement program pursuant to RCW 36.81.121
  27. "Traffic engineer" means an engineer licensed in the state of Washington qualified to perform traffic impact analyses.
  28. "Transportation facilities" means all principal arterials, minor arterials, collector arterials, major collectors, minor collectors and local accesses in Kittitas County as defined in KCC 12.03.
  29. "Transportation strategies" means transportation demand management strategies and other techniques or programs that reduce single-occupant vehicle commute travel or improve the capacity of a transportation facility and that are approved by the director. Strategies may include but are not limited to vanpooling, carpooling, public transit, access management, signalization and channelization.