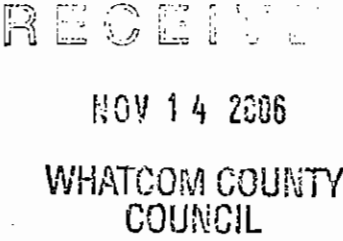


**WHATCOM COUNTY COUNCIL AGENDA BILL**

**NO. 2006-443**

CLEARANCES	Initial	Date	Date Received in Council Office	Agenda Date	Assigned to:
Originator: John Everett	JE	11/9/06		11/21/06	P&D / Introduction
Division Head: n/a				12/5/06	Hearing
Dept. Head: Hal Hart	HHH	11/13/06			
Prosecutor: Royce Buckingham	RBF	11/9/06			
Purchasing/Budget:					
Executive:	Roney	11/14/06			

**TITLE OF DOCUMENT:** *Transportation Concurrency Management Ordinance*

**ATTACHMENTS:**  
*Memorandum and draft ordinance*

SEPA review required? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> NO	Should Clerk schedule a hearing? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> NO
SEPA review completed? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> NO	Requested Date: December 5, 2006

*Note: will complete prior to public hearing date.*

**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:** *(If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)*

An interim ordinance relating to transportation concurrency management; establishing development review procedures ensuring that adequate transportation facilities are available or provided concurrent with development, in accordance with the Growth Management Act.

**COMMITTEE ACTION:**  
11/21/2006: Amended and forwarded to Council  
Amended version will be introduced tonight

**COUNCIL ACTION:**  
11/21/2006: Introduced  
12/05/2006: Council Adopted 6-1 Crawford opposed, Ord. 2006-059

<b>Related County Contract #:</b>	<b>Related File Numbers:</b> ZON2006-00018 AB2006-60	<b>Ordinance or Resolution Number:</b> Ord. 2006-059
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**Please Note:** *Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County's website at: [www.co.whatcom.wa.us/council](http://www.co.whatcom.wa.us/council).*

SPONSORED BY: Consent

PROPOSED BY: Planning

INTRODUCTION DATE: 11/21/06

ORDINANCE NO. 2006-059

**AN INTERIM ORDINANCE AMENDING WCC, TITLE 20 BY ADDING A NEW CHAPTER 20.78 ESTABLISHING DEVELOPMENT REVIEW PROCEDURES ENSURING THAT ADEQUATE TRANSPORTATION FACILITIES ARE AVAILABLE OR PROVIDED CONCURRENT WITH DEVELOPMENT, IN ACCORDANCE WITH THE GROWTH MANAGEMENT ACT.**

**WHEREAS**, rapid population, employment opportunities and traffic growth in and around the unincorporated urban growth areas of Whatcom County have led to community recommendations to ensure that public facilities and services necessary to support development are adequate or will be provided in a timely manner; and

**WHEREAS**, high rates of development in the County's unincorporated growth areas have begun to strain the County's ability to finance and construct transportation improvements necessary to ensure adequate levels of service; and

**WHEREAS**, the Growth Management Act (GMA) RCW 36.70A.020 includes the goal of ensuring that those public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards; and

**WHEREAS**, the Washington State Growth Management Act of 1990 (GMA) RCW 36.70A requires jurisdictions to establish Levels of Service (LOS) Standards for their transportation systems and to prohibit development if it will cause the transportation LOS to decline below the adopted standard (unless transportation improvements and strategies are made to accommodate the development within six years); and

**WHEREAS**, the Whatcom County Comprehensive Plan Policy 4J-1 states that "Based on established levels of service for all road segments under control of the county, develop a concurrency management program that provides for consistent and predictable evaluation of the impacts of future proposed development; and

**WHEREAS**, the Whatcom County SEPA official issued a Determination of Non-Significance on November 1, 2006; and

**WHEREAS**, RCW 36.70.790 and RCW 36.70.795 permits adoption of interim official controls so long as a public hearing is held within 60 days of adoption; and

**WHEREAS**, RCW 36.70.795 requires the adoption of findings of fact which justify Council action; therefore, the Council makes the following findings of fact:

1. The County currently lacks the regulatory mechanisms necessary to ensure that adequate public facilities and services are provided concurrent with development.

2. This new chapter related to transportation concurrency management is consistent with the goals and policies of the Whatcom County Comprehensive Plan and the Washington State Growth Management Act.
3. An interim transportation concurrency management system is necessary to allow evaluation and discussion of options related to levels of service, the promotion of multimodal facilities, financing, as well as consideration of innovative regulatory controls and administration.

**NOW, THEREFORE, BE IT ORDAINED** by the Whatcom County Council that WCC Title 20 is hereby amended to include a new Chapter 20.78 as shown in Exhibit A.

**BE IT FURTHER ORDAINED** by the Whatcom County Council, pursuant to RCW 36.70.795, that this amendment shall be effective for not longer than six months following the effective date of this ordinance, which may be renewed for one or more sixmonth periods until December 31, 2008 if subsequent public hearings are held and findings of fact are made prior to each renewal.

ADOPTED this 5 day of December, 2006.

**WHATCOM COUNTY COUNCIL  
WHATCOM COUNTY, WASHINGTON**



Dana Brown Davis,  
Clerk of the Council

APPROVED as to form

Civil Deputy Prosecutor

*Laurie Caskey-Schreiber*  
Laurie Caskey-Schreiber, Council Chair

Approved     Denied

*Pete Kremen*  
Pete Kremen, County Executive

Date: 12-8-06

1 **EXHIBIT A**

2 **Chapter 20.78**  
3 **TRANSPORTATION CONCURRENCY MANAGEMENT**

4 **Sections:**

- 5 **20.78.010 Purpose.**  
6 **20.78.020 Authority.**  
7 **20.78.030 Transportation concurrency – Exempt development.**  
8 **20.78.040 Level of service standards.**  
9 **20.78.050 Concurrency evaluation.**  
10 **20.78.060 Concurrency determination.**  
11 **20.78.070 Certificates of transportation capacity.**  
12 **20.78.080 Administrative reconsideration.**  
13 **20.78.090 Appeal.**  
14 **20.78.100 Definitions.**  
15

16 **20.78.010 Purpose.**

17 The purpose of this chapter is to ensure that adequate transportation facilities are available or  
18 provided concurrent with development, in accordance with the Growth Management Act. No  
19 development permit shall be issued except in accordance with this chapter.

20 **20.78.020 Authority.**

21 The planning and development services director, or his/her designee, shall be responsible for  
22 implementing and enforcing this chapter.

23 **20.78.030 Exempt development.**

24 The following development permits shall be exempt from requiring a new concurrency evaluation:

25 (1) Developments with complete applications prior to the effective date of this ordinance so long as  
26 the original proposal has not been modified after the effective date of this ordinance in a manner that  
27 increases development units.

28 (2) Renewals of previously issued, unexpired permits.

29 (3) Phases of projects that were included in a concurrency evaluation as part of the original  
30 application (i.e., phased development), provided that the determination of concurrency was approved  
31 for the subsequent phase.

32 (4) Development applications for public buildings, including but not limited to:

33 (a) Public libraries;

34 (b) Publicly funded and operated educational facilities;

35 (c) Public parks and recreation facilities; and

36 (d) Public transportation facilities.

37 (5) Development that does not result in an impacted transportation facility as defined by this  
38 chapter; such development includes but is not limited to:

39 (a) Residential development projects of four (4) or fewer dwelling units;

40 (b) Subdivision of land that will result in four (4) or fewer dwelling units;

41 (c) Non-residential developments that generate four (4) or fewer peak hour project trips;

42 (d) Any addition or accessory structure to a residence with no change in use or increase in the  
43 number of dwelling units;

44 (e) Interior renovations with no change in use or increase in the number of development units;

- 45 (f) Interior completion of a structure for use(s) generating the same or less peak hour traffic as
- 46 the existing use or a previously approved use;
- 47 (g) Replacement structure with no change in use or increase in the number of development
- 48 units;
- 49 (h) Temporary construction trailers;
- 50 (i) Driveway resurfacing or parking lot paving;
- 51 (j) Reroofing structures; and
- 52 (k) Demolitions.

53 (6) At his or her discretion, the director may require a trip generation and distribution study  
 54 performed by a traffic engineer to confirm that the proposed development or use does not result in an  
 55 impacted transportation facility.

56 (7) Notwithstanding the exemptions listed above, the traffic resulting from any exempt use or  
 57 permit shall be included in computing background traffic for any nonexempt development.

58 **20.78.040 Level of service standards.**

59 The transportation level of service standards are described and contained in the Whatcom County  
 60 Comprehensive Plan and any adopted modifications.

61 **20.78.050 Concurrency evaluation.**

62 (1) Application.

63 (a) County review of all applications for development permits, unless exempted by WCC  
 64 20.78.030, shall include a concurrency evaluation.

65 (b) For transportation concurrency evaluation, the applicant shall provide a traffic study  
 66 prepared by a traffic engineer, which shall compare the calculated level of service to the adopted level  
 67 of service standard for each impacted transportation facility. The traffic study shall, at a minimum,  
 68 provide the following information:

69 (i) Number of peak hour trips generated by the development according to the ITE trip  
 70 generation manual or other method approved by the director;

71 (ii) Anticipated trip distribution;

72 (iii) The current calculated level of service of all impacted transportation facilities;

73 (iv) The future calculated level of service of all impacted transportation facilities  
 74 incorporating traffic volumes from the proposed development;

75 (v) Any proposed mitigation; and

76 (vi) The future calculated level of service of all impacted transportation facilities with the  
 77 incorporation of proposed development traffic volumes and any proposed mitigation.

78 (c) The concurrency evaluation shall be accompanied by an application on a form provided by  
 79 the department and an application fee as provided in the County's Unified Fee Schedule.

80 (d) If SEPA is required for the proposed development, the concurrency evaluation shall be  
 81 submitted and considered during the SEPA process.

82 (e) For phased projects, an evaluation of the whole project under SEPA is encouraged.  
 83 However, if a development permit is only for a phase of a project, a determination, if one has not  
 84 been performed during the SEPA process, may be made for that phase. A determination and  
 85 certificate issued for a single phase shall not guarantee capacity for future phases.

86  
 87 **20.78.060 Concurrency determination**

88 The County shall not approve a development application unless there are adequate transportation  
 89 facilities to meet the level of service standards for existing and approved uses, based on the forecast  
 90 PM peak hour traffic volumes and the committed transportation system.

91 (1) If the concurrency evaluation shows that the ratio of the forecast PM peak hour traffic volume  
 92 to the capacity of each transportation facility is equal to or less than the adopted level of service  
 93 standard for each impacted transportation facility, the director shall issue a determination of

94 concurrency finding and a certificate of transportation capacity according to the provisions of WCC  
95 20.78.070.

96 (2) If the concurrency evaluation shows that the ratio of the forecast PM peak hour traffic volume  
97 to the capacity of each transportation facility exceeds the adopted level of service standard for each  
98 impacted transportation facility, the concurrency test is not passed and the director shall notify the  
99 applicant in writing of the denial. The applicant may:

100 (a) Amend the application within ninety (90) days in one or more of the following ways:

101 (i) Modify the project to reduce the impact on affected facilities;

102 (ii) Phase the project to coincide with planned improvements that will ensure concurrency;

103 (iii) Mitigate the impacts of the project to ensure concurrency;

104 (iv) Arrange with the service provider to provide the additional capacity of facilities

105 required; or

106 (v) Propose transportation strategies that will reduce the demand for capacity.

107 (b) Ask the director for formal reconsideration of the concurrency evaluation in accordance  
108 with the provisions of WCC 20.78.080;

109 (c) Withdraw the application and reapply for an evaluation when concurrency can be ensured;

110 or

111 (d) If none of the above actions are initiated within 90 days of notification of denial, the

112 application shall be determined to be incomplete.

113 **20.78.070 Certificates of transportation capacity.**

114 (1) A certificate of transportation capacity shall be issued upon approval of the development  
115 proposal for which a concurrency evaluation was conducted by the applicant, reviewed by the County  
116 and issued a determination of concurrency by the director. If applicable, payment of fee and/or  
117 performance of any condition required by a service provider shall be a condition of certificate  
118 issuance. In no event shall the director determine concurrency for a greater amount of capacity than is  
119 needed for the development proposed in the underlying permit application, except as provided for  
120 phased development.

121 (2) A certificate of transportation capacity shall apply only to the specific land uses, densities,  
122 intensities and development projects described in the application and development permit. In the  
123 event that, subsequent to issuance of the certificate, the approved development is modified to generate  
124 lower traffic impacts on the transportation system, the certificate shall be modified to reflect the  
125 reduced traffic impact. The certificate shall only be valid for the type and intensity of development  
126 that was approved by the County, unless the determination of concurrency also covered subsequent  
127 development phases that were identified as part of the concurrency evaluation.

128 (3) Phasing.

129 (a) Phased development. A certificate of transportation capacity may be issued for a phase of a  
130 development if the underlying permit is only for a phase. In this case the certificate shall be  
131 conditioned to note that certificates are required for future phases.

132 (b) Phased improvements. If a certificate of transportation capacity is issued for a whole project  
133 that is to be completed in phases and that requires mitigation, the certificate may allow mitigation to  
134 be phased so long as the mitigation ensures capacity for each phase.

135 (4) Transferability. A certificate of transportation capacity is not transferable to other land, but  
136 may be transferred to new owners of the original land. The developer may, as part of a development  
137 permit application, designate the amount of capacity to be allocated to portions of the property, such  
138 as lots, blocks, parcels, or tracts included in the application. Capacity may be reassigned or allocated  
139 within the boundaries of the original property by application to the director.

140 (5) Life Span of Certificate. A certificate of transportation capacity shall expire if the  
141 accompanying development permit expires or is revoked. The certificate may be extended according  
142 to the same terms and conditions as the accompanying development permit. If the development  
143 permit is granted an extension, so shall the certificate of transportation capacity. If the accompanying

144 development permit does not expire, the certificate of transportation capacity shall be valid for four  
145 years from the date of issuance. The director may approve an extension of up to one year.

146 (6) Unused Capacity. Any capacity that is not used because the developer voluntarily surrenders  
147 the certificate, decides not to develop, or the accompanying development permit expires, shall be  
148 returned to the available pool of capacity.

149 **20.78.080 Administrative reconsideration.**

150 (1) The applicant may request reconsideration of the results of the concurrency evaluation within  
151 15 days of the notification of the evaluation results by filing a formal request for reconsideration  
152 specifying the grounds thereof, using forms authorized by the department.

153 (2) Upon filing of such request for reconsideration, the department shall notify the appropriate  
154 service provider(s) of such request.

155 (3) The director shall reconsider the evaluation results and issue a determination either upholding  
156 the original determination or amending it.

157 **20.78.090 Appeal.**

158 (1) The results of an administrative reconsideration pursuant to WCC 20.78.080 may be appealed  
159 to the hearing examiner, as provided by Chapter 20.92 WCC.

160 (2) Any appeal shall be accompanied by a fee as defined in the County's Unified Fee Schedule.

161 (3) Upon filing of such appeal, the department shall notify the appropriate service provider(s) of  
162 the appeal.

163 **20.78.100 Definitions.**

164 (1) "Adequate transportation facilities" means transportation facilities which have the capacity to  
165 serve development while meeting the County's established level of service standards.

166 (2) "Calculated level of service" means the ratio of the forecast peak hour traffic volume to the  
167 capacity of a transportation facility.

168 (3) "Capacity" means the estimated directional rate of traffic flow that can be accommodated by a  
169 given transportation facility within the PM peak hour and is expressed in terms of vehicles per hour.  
170 The capacity used in the concurrency evaluation is defined by the County and based on the committed  
171 transportation system.

172 (4) "Certificate of transportation concurrency" is the final document issued by Whatcom County,  
173 confirming availability and reserving capacity on the County's transportation facilities specific to the  
174 proposed development or development permit.

175 (5) "Committed transportation system" means the system of transportation facilities used to  
176 calculate the level of service relative to a development proposal. It includes existing transportation  
177 facilities and proposed facilities which are fully funded for construction in the most currently adopted  
178 Six-Year Transportation Improvement Program or for which voluntary financial commitments have  
179 been secured in an amount sufficient to complete the particular facility improvement. The County  
180 may make adjustments to the committed transportation system for corrections, updates, and  
181 modifications concerning costs, revenue sources, acceptance of facilities pursuant to dedications  
182 consistent with the adopted comprehensive plan, or the date of construction (scheduled for  
183 completion within the six-year period) of any facility enumerated in the Six-Year Transportation  
184 Improvement Program. The committed transportation system includes:

185 (a) County roads;

186 (b) State highways and freeways within the County;

187 (c) Bus routes;

188 (d) Park and ride lot locations;

189 (e) Trails, pathways, or other non-motorized transportation facilities;

190 (f) High occupancy vehicle exclusive lanes; and

191 (g) Projects to be provided by the State, cities or other jurisdictions may become part of the  
192 committed transportation system upon decision of the County.

- 193 (6) "Concurrency" means that adequate transportation facilities are in place at the time of  
194 development or that a financial commitment is in place to complete the improvements or strategies  
195 needed for adequate transportation facilities within six years.
- 196 (7) "Concurrency evaluation" means the process to determine if a proposed development's impact  
197 on transportation facilities meets the County's level of service standards set for those affected  
198 roadways, as defined in this ordinance.
- 199 (8) "Determination of concurrency" means a determination by the director based on a concurrency  
200 evaluation that shows that the development's impacts on the transportation system would not result in  
201 the level of service of a transportation facility falling below the adopted level of service standard for  
202 the facility.
- 203 (9) "Department" means the planning and development services department of Whatcom County.
- 204 (10) "Development approval" means any order, permit or other official action of the County  
205 granting, or granting with conditions, an application for development which authorizes the  
206 commencement of development activity.
- 207 (11) "Development units" means the proposed quantity of development measured by dwelling  
208 units for residential development and square feet for specific nonresidential use categories, which are  
209 the basis of the calculations of level of service for the determination of concurrency.
- 210 (12) "Director" means the planning and development services director, or his/her designee.
- 211 (13) "Financial commitment" consists of the following:
- 212 (a) Revenue designated in the most currently adopted Six-Year Transportation Improvement  
213 Program for transportation facilities or strategies comprising the committed transportation system.  
214 Projects to be used in defining the committed transportation system shall represent those projects that  
215 are identified as funded for construction in the six years of the Six-Year Transportation Improvement  
216 Program;
- 217 (b) Revenue from federal or state grants for which the County has received notice of approval;  
218 and
- 219 (c) Revenue that is assured by an applicant in a form approved by the County in a voluntary  
220 agreement.
- 221 (14) "Forecast peak hour traffic volume" means a forecast PM peak hour traffic volume that  
222 includes existing traffic, ambient traffic growth, traffic from other future development projects that  
223 were applied for prior to the subject development application based on Whatcom County records, and  
224 the traffic anticipated from the subject development.
- 225 (15) "Growth Management Act" means the Washington State Growth Management Act (RCW  
226 36.70A) and any adopted amendments.
- 227 (16) "Impacted transportation facility" includes any transportation facility which is impacted by  
228 five (5) or more peak hour project trips in one direction.
- 229 (17) "ITE trip generation manual" means the manual prepared by the Institute of Transportation  
230 Engineers, latest edition, for the purpose of assigning numbers of vehicle trips associated with various  
231 land uses.
- 232 (18) "Level of service standard" means the transportation level of service standard as adopted in  
233 the Whatcom County Comprehensive Plan based on the ratio of forecast peak hour traffic volumes to  
234 capacity.
- 235 (19) "Mitigation" means transportation demand management strategies and/or facility  
236 improvements constructed or financed by a developer which returns a degraded facility level of  
237 service to the standard for the facility.
- 238 (20) "Peak hour project trips" means the traffic estimated by a traffic engineer to be generated by a  
239 proposed development during the one-hour weekday afternoon period during which the greatest  
240 volume of traffic uses the road system.
- 241 (21) "Peak hour traffic" means traffic volumes during the one-hour weekday afternoon period  
242 during which the greatest volume of traffic uses the road system, as identified separately for each  
243 segment of a transportation facility.

244 (22) "PM peak hour" means the one-hour weekday afternoon period during which the greatest  
245 volume of traffic uses the road system, as identified separately for each segment of a transportation  
246 facility.

247 (23) "SEPA" means the State Environmental Policy Act (RCW 43.21) as implemented by  
248 Whatcom County.

249 (24) "Service provider" means the jurisdictions, department or agency responsible for providing  
250 the facility.

251 (25) "Six-Year Transportation Improvement Program" means the expenditures programmed by the  
252 County for capital purposes over the next six-year period in the Six-Year Transportation  
253 Improvement Program pursuant to RCW 35.77.010.

254 (26) "Traffic engineer" means an engineer licensed in the State of Washington qualified to  
255 perform traffic impact analyses.

256 (27) "Transportation facilities" means all principal arterials, minor arterials, collector arterials,  
257 major collectors, and minor collectors in Whatcom County as defined in Whatcom County  
258 Development Standards Chapter 5 "Road Standards", incorporated herein by this reference.

259 (28) "Transportation strategies" means transportation demand management strategies and other  
260 techniques or programs that reduce single-occupant vehicle commute travel or improve the capacity  
261 of a transportation facility and that are approved by the director. Strategies may include but are not  
262 limited to vanpooling, carpooling, public transit, access management, signalization and  
263 channelization.