

**WHATCOM COUNTY COUNCIL AGENDA BILL**

NO. AB2007-069A

CLEARANCES	Initial	Date	Date Received in Council Office	Agenda Date	Assigned to:
Originator: John Everett	JE	8/2/07	<b>RECEIVED</b>  AUG 02 2007  WHATCOM COUNTY COUNCIL	8/07/2007	Introduction
Division Head: Linda Peterson	LP	8-2-07		9/11/2007	Hearing
Dept. Head: Sam Ryan	SR	8-2-07			
Prosecutor:					
Purchasing/Budget:					
Executive:					

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

**ATTACHMENTS:**  
Memorandum and draft ordinance

SEPA review required? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> NO SEPA review completed? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> NO	Should Clerk schedule a hearing? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> NO Requested Date:    September 11, 2007
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**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.

<p><b>COMMITTEE ACTION:</b></p>	<p><b>COUNCIL ACTION:</b>                      8/07/2007: Introduced                      9/11/2007: Council Adopted 7-0                      Ord. 2007-043</p>
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<p><b>Related County Contract #:</b></p>	<p><b>Related File Numbers:</b>                      ZON2007-0001 AB2007-069</p>	<p><b>Ordinance or Resolution Number:</b>                      Ord. 2007-043</p>
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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:** 8/7/2007

**ORDINANCE NO.** 2007-043

**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.

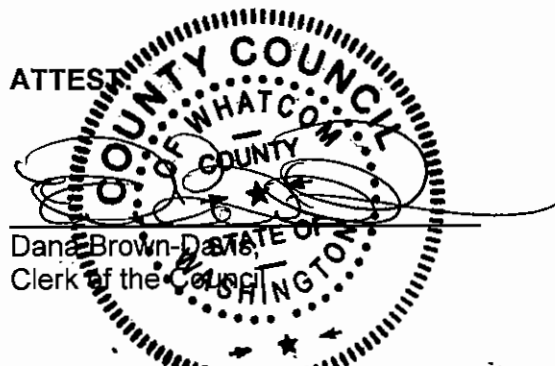
2. This new chapter related to transportation concurrency management is consistent with the goals and policies of the Whatcom County Comprehensive Plan and the Washington State Growth Management Act.
3. An interim transportation concurrency management system is necessary to allow evaluation and discussion 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 six-month periods until December 31, 2008 if subsequent public hearings are held and findings of fact are made prior to each renewal.

ADOPTED this 11 day of September, 2007.

ATTEST



Dana Brown-Davis,  
Clerk of the Council

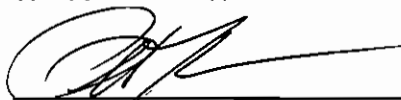
APPROVED as written

Civil Deputy Prosecutor

**WHATCOM COUNTY COUNCIL  
WHATCOM COUNTY, WASHINGTON**

  
Carl Weimer, Council Chair

Approved  Denied

  
Pete Kremen, County Executive

Date: 9-13-07

# EXHIBIT A

## Chapter 20.78

### TRANSPORTATION CONCURRENCY MANAGEMENT

#### Sections:

**20.78.010 Purpose.**

**20.78.020 Authority.**

**20.78.030 Transportation concurrency – Exempt development.**

**20.78.040 Level of service standards.**

**20.78.050 Concurrency evaluation.**

**20.78.060 Concurrency determination.**

**20.78.070 Certificates of transportation capacity.**

**20.78.080 Administrative reconsideration.**

**20.78.090 Appeal.**

**20.78.100 Annual Transportation Concurrency Report**

**20.78.110 Definitions.**

#### **20.78.010 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 WAC 365-195-835. No development permit shall be issued except in accordance with this chapter.

#### **20.78.020 Authority.**

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

#### **20.78.030 Exempt development.**

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

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

(2) Renewals of previously issued, unexpired permits.

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

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

(a) Public libraries;

(b) Publicly funded and operated educational facilities;

(c) Public parks and recreation facilities; and

(d) Public transportation facilities.

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

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

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

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

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

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

- 46 (f) Interior completion of a structure for use(s) generating the same or less peak hour traffic as
- 47 the existing use or a previously approved use;
- 48 (g) Replacement structure with no change in use or increase in the number of development
- 49 units;
- 50 (h) Temporary construction trailers;
- 51 (i) Driveway resurfacing or parking lot paving;
- 52 (j) Reroofing structures; and
- 53 (k) Demolitions.
- 54 (6) At his or her discretion, the director may require of an applicant for a development permit that
- 55 does not qualify as exempt pursuant to WCC 20.78.030(5) a trip generation and distribution study
- 56 performed by a traffic engineer to confirm that the proposed development or use does not result in an
- 57 impacted transportation facility.
- 58 (7) Notwithstanding the exemptions listed above, the traffic resulting from any exempt use or
- 59 permit shall be included in computing background traffic for any nonexempt development.

60 **20.78.040 Level of service standards.**

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

63 **20.78.050 Concurrency evaluation.**

- 64 (1) Application.
- 65 (a) County review of all applications for development permits, unless exempted by WCC
- 66 20.78.030, shall include a concurrency evaluation.
- 67 (b) For transportation concurrency evaluation, the applicant shall provide a traffic study
- 68 prepared by a traffic engineer, which shall compare the calculated level of service to the adopted level
- 69 of service standard for each impacted transportation facility. The traffic study shall, at a minimum,
- 70 provide the following information:
  - 71 (i) Number of peak hour trips generated by the development according to the ITE trip
  - 72 generation manual or other method approved by the director;
  - 73 (ii) Anticipated trip distribution;
  - 74 (iii) The current calculated level of service of all impacted transportation facilities;
  - 75 (iv) The future calculated level of service of all impacted transportation facilities
  - 76 incorporating traffic volumes from the proposed development;
  - 77 (v) Any proposed mitigation; and
  - 78 (vi) The future calculated level of service of all impacted transportation facilities with the
  - 79 incorporation of proposed development traffic volumes and any proposed mitigation.
- 80 (c) The concurrency evaluation shall be accompanied by an application on a form provided by
- 81 the department and an application fee as provided in the County's Unified Fee Schedule.
- 82 (d) The concurrency evaluation and determination shall be completed prior to:
  - 83 (i) Issuance of administrative approval/denial of the project permit if SEPA review is not a
  - 84 requirement of the project;
  - 85 (ii) Issuance of the DNS, MDNS or DS if SEPA review is a requirement of the project; or
  - 86 (iii) Issuance of the staff report to the Hearings Examiner if there is a hearing before the
  - 87 Hearings Examiner and SEPA review is not a requirement of the project.
- 88 (e) Development Permits for phased developments shall have the concurrency evaluation
- 89 completed for the entire project. A developer may elect to have the concurrency evaluation
- 90 undertaken for less than the entire project, if and only if:
  - 91 (i) The Director agrees to such limited evaluation;
  - 92 (ii) Each phase shall include all of the infrastructure to service that phase;
  - 93 (ii) There is a written note included in the preliminary approval for such phased
  - 94 development that the traffic concurrency evaluation is limited only to the specific phases for which

95 approval has been provided.

96  
97 **20.78.060 Concurrency determination**

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

101 (1) If the concurrency evaluation shows that the ratio of the forecast PM peak hour traffic volume  
102 to the capacity of each transportation facility is equal to or less than the adopted level of service  
103 standard for each impacted transportation facility, the director shall issue a determination of  
104 concurrency finding and a certificate of transportation capacity according to the provisions of WCC  
105 20.78.070.

106 (2) If the concurrency evaluation shows that the ratio of the forecast PM peak hour traffic volume  
107 to the capacity of any transportation facility exceeds the adopted level of service standard for any  
108 impacted transportation facility, the concurrency test is not passed and the director shall notify the  
109 applicant in writing of the denial of the issuance of the certificate of transportation capacity. The  
110 applicant may:

111 (a) Amend the application within ninety (90) days in such a way to ensure that the ratio of the  
112 forecast PM peak hour traffic volume to the capacity of each transportation facility does not exceed  
113 the adopted level of service standard for each impacted transportation facility. To meet the foregoing,  
114 amendments may include one or more of the following :

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

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

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

118 (iv) Arrange with the service provider to provide the additional capacity of facilities  
119 required; and/or

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

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

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

125 (d) Appeal the denial per WCC 20.78.090.

126 (3) A concurrency determination shall expire if the underlying permit application upon which the  
127 determination was based expires or is withdrawn.

128 **20.78.070 Certificates of transportation capacity.**

129 (1) A certificate of transportation capacity shall be issued upon approval of the development permit  
130 for which a concurrency evaluation was conducted by the applicant, reviewed by the County and  
131 issued a determination of concurrency by the director. If applicable, payment of fee and/or  
132 performance of any condition required by a service provider shall be a condition of certificate  
133 issuance if such fee or performance of condition has been approved by the County. In no event shall  
134 the director determine concurrency for a greater amount of capacity than is needed for the  
135 development proposed in the underlying permit application, except as provided for phased  
136 development.

137 (2) A certificate of transportation capacity shall apply only to the specific land uses, densities,  
138 intensities and development projects described in the approved development permit. In the event that,  
139 subsequent to issuance of the certificate, the approved development is modified to generate lower  
140 traffic impacts on the transportation system, the certificate shall be modified to reflect the reduced  
141 traffic impact.

142 (3) Phasing.

143 A certificate of transportation capacity shall be issued for all phases of a development permit,  
144 except when the conditions set forth in WCC 20.78.050(e) have been fulfilled. In this case the

145 certificate shall be conditioned to note that certificates are required for future phases. The certificate  
146 shall specifically identify the amount, extent and timing of any required traffic mitigation.

147 (4) Transferability. A certificate of transportation capacity is not transferable to other land. The  
148 certificate of transportation capacity, once issued, shall become part of the development permit and  
149 shall be transferred to new owners of the original land if and only if the development permit is so  
150 transferred to the new owners.

151 (5) Capacity allocations. The applicant may, as part of a development permit application,  
152 designate in writing the amount of capacity to be allocated to portions of the property, such as lots,  
153 blocks, parcels, or tracts included in the application. Any such allocation shall be reflected in the  
154 certificate of transportation capacity. Capacity may be reassigned or allocated within the boundaries  
155 of the original property by application to the director. The director shall amend the certificate  
156 accordingly.

157 (6) Life Span of Certificate. A certificate of transportation capacity shall expire when the  
158 accompanying development permit expires or is revoked. The certificate may be extended according  
159 to the same terms and conditions as the accompanying development permit. If the development  
160 permit is granted an extension, so shall the certificate of transportation capacity. If the accompanying  
161 development permit does not expire, the certificate of transportation capacity shall be valid for four  
162 years from the date of issuance. The director may approve an extension of up to one year.

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

166 **20.78.080 Administrative reconsideration.**

167 (1) The applicant may request reconsideration of the results of the concurrency evaluation within  
168 15 days of the written notification of the evaluation results by filing a formal request for  
169 reconsideration specifying the grounds thereof, using forms authorized by the department.

170  
171 (2) The director shall reconsider the evaluation results and issue a determination within 30 days of  
172 the filing of such request either upholding the original determination or amending it.

173 **20.78.090 Appeal.**

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

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

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

179

180 **20.78.100 Annual transportation concurrency report.**

181 (1) The director shall prepare an annual report presenting current capacities and levels of service  
182 for affected facilities. The report shall identify any known existing and projected service deficiencies  
183 and recommend steps necessary to achieve concurrency including, but not limited to, reevaluating  
184 level of service standards, improvement financing strategies and/or reassessment of land use policies.  
185 The report shall be used in the review and update of the County's Six-Year Transportation  
186 Improvement Program and the County's Six-Year Capital Improvement Program.

187 **20.78.110 Definitions.**

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

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

192 (3) "Capacity" means the estimated directional rate of traffic flow that can be accommodated by a  
193 given transportation facility within the PM peak hour and is expressed in terms of vehicles per hour.

194 The capacity used in the concurrency evaluation is defined by the County and based on the committed  
195 transportation system.

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

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

209 (a) County roads;

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

211 (c) Bus routes;

212 (d) Park and ride lot locations;

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

214 (f) High occupancy vehicle exclusive lanes; and

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

217 (6) "Concurrency" means that adequate transportation facilities are in place at the time of  
218 development or that a financial commitment is in place to complete the improvements or strategies  
219 needed for adequate transportation facilities within six years.

220 (7) "Concurrency evaluation" means the process to determine if a proposed development's impact  
221 on transportation facilities meets the County's level of service standards set for those affected  
222 roadways, as defined in this ordinance.

223 (8) "Determination of concurrency" means a determination by the director based on a concurrency  
224 evaluation that shows that the development's impacts on the transportation system will not result in  
225 the level of service of a transportation facility falling below the adopted level of service standard for  
226 the facility.

227 (9) "Department" means the planning and development services department of Whatcom County.

228 (10) "Development permit" means any order, permit or other official action of the County  
229 granting, or granting with conditions, an application for development as defined by WCC 20.97.099  
230 which authorizes the commencement of development activity.

231 (11) "Development units" means the proposed quantity of development measured by dwelling  
232 units for residential development and square feet for specific nonresidential use categories, which are  
233 the basis of the calculations of level of service for the determination of concurrency.

234 (12) "Director" means the planning and development services director, or his/her designee.

235 (13) "Financial commitment" consists of the following:

236 (a) Revenue designated in the most currently adopted Six-Year Transportation Improvement  
237 Program for transportation facilities or strategies comprising the committed transportation system.  
238 Projects to be used in defining the committed transportation system shall represent those projects that  
239 are identified as funded for construction in the six years of the Six-Year Transportation Improvement  
240 Program;

241 (b) Revenue from federal or state grants for which the County has received notice of approval;  
242 and

243 (c) Revenue that is assured by an applicant in a form approved by the County in a voluntary  
244 agreement.

245 (14) "Forecast peak hour traffic volume" means a forecast PM peak hour traffic volume that  
246 includes existing traffic, ambient traffic growth, traffic from other future development projects that  
247 were applied for prior to the subject development application based on Whatcom County records, and  
248 the traffic anticipated from the subject development.

249 (15) "Growth Management Act" means the Washington State Growth Management Act (RCW  
250 36.70A) and any adopted amendments.

251 (16) "Impacted transportation facility" includes any transportation facility which is impacted by  
252 five (5) or more peak hour project trips in one direction.

253 (17) "ITE trip generation manual" means the manual prepared by the Institute of Transportation  
254 Engineers, latest edition, for the purpose of assigning numbers of vehicle trips associated with various  
255 land uses.

256 (18) "Level of service standard" means the transportation level of service standard as adopted in  
257 the Whatcom County Comprehensive Plan based on the ratio of forecast peak hour traffic volumes to  
258 capacity.

259 (19) "Mitigation" means transportation demand management strategies and/or facility  
260 improvements constructed or financed by a developer which fully offsets the subject development's  
261 impacts to a facility so that a) the level of service for a transportation facility with a pre-existing level  
262 of service deficiency is not further degraded; or b) the level of service for a transportation facility  
263 without a pre-existing level of service deficiency is not reduced below the approved level of service.

264 (20) "Peak hour project trips" means the traffic estimated by a traffic engineer to be generated by a  
265 proposed development during the one-hour weekday afternoon period during which the greatest  
266 volume of traffic uses the road system.

267 (21) "Peak hour traffic" means traffic volumes during the one-hour weekday afternoon period  
268 during which the greatest volume of traffic uses the road system, as identified separately for each  
269 segment of a transportation facility.

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

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

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

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

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

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

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