

## Planning Commission and City Council Work Session Draft 9-2025

### Chapter 14.110 CONCURRENCY MANAGEMENT SYSTEM

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#### **14.110.010 Purpose.**

This chapter provides the necessary regulatory mechanism for determining if a development proposal activity meets the concurrency provisions of the Comprehensive Plan and to ensure that public facilities are available to support the development activity's impact at adopted levels of service.

#### **14.110.020 Applicability.**

- (a) This chapter applies to:
  - (1) All development approval activity applications filed after its effective date, unless exempted.
  - (2) Changes of occupancy or changes of use that result in increased demand on for system improvements including public parks, roads transportation facilities or sewer.
  - (3) Reconstruction or expansions of buildings that results in an increase in vehicular trips, housing units or sewage demand in excess of exceeding the pre-existing demand on roads, parks and/or sewer facilities.
  - (4) Phased Development, which is any development involving the review of multiple buildings on a single-site or as part of a related project or distinct phases of a subdivision, where the issuance of building permits and/or final land use actions occur at different times, per a defined schedule. For phased developments, the city shall consider the potential impacts and need for public services cumulatively for the entire project, to determine concurrency.

#### **14.110.025 Administration**

- (a) The Director of Planning and Community Development, or designee shall be responsible for the administration of this chapter including but not limited to establishing application requirements; evaluating development activities to determine if the project meets level of service or "no impact" standards or exemptions; identifying methods for meeting concurrency, including construction of improvements or alternative concurrency strategies; and records maintenance and project monitoring.
- (b) The Public Works Department will be consulted during the project review phase to provide technical recommendations on appropriate methods for meeting concurrency and alternative concurrency strategies, considering engineered design solutions for construction improvements, impact to public infrastructure and the assessment of in-lieu fees, as identified in sections 14.110.080, 14.110.090 and 14.110.100.

#### **14.110.030 Exemptions.**

- (a) No Impact. Development activities, which creates no do not create additional, measurable additional impacts on any transportation or parks facility, is are exempt from the requirements of this chapter, including but not limited to: This type of development includes, but is not necessarily limited to:
  - (1) Any addition or accessory structure to a residence with no change in use or increase in the number of dwelling units.
  - (2) Interior alterations with no change of use or increased demand for system improvements per LSMC 14.110.020, or additional dwelling units for residential uses.Interior renovations with increase in floor area and no change of use or, if a residential use, no increase in the number of dwelling units.
  - (3) Replacement structures with no change of use, expansion in floor area or increased demand for system improvements per LSMC 14.110.020, or additional dwelling units for residential uses.Replacement structure with no change in use, no increase in floor area or, if a residential use, no increase in the number of dwelling units.
  - (4) Temporary construction trailers.
  - (5) Driveway resurfacing or parking lot paving.
  - (6) Normal repair and maintenance activities, which do not increase floor area or add residential dwelling units, such as re-roofing.
  - (7) Demolitions.
  - (8) Clearing, grading, filling.
  - (9) The Public Works and Planning and Community Development Departments shall jointly be responsible for determining if other types of development also meet this "no impact" standard so as to be included under this exemption.
- (b) Exempt Permits and Decisions. The following development permits and decisions are exempt from the requirements of this chapter:
  - (1) Boundary line adjustment.
  - (2) Final plat.

- (3) Land use permit for temporary uses such as fireworks stands and Christmas tree lots.
- (4) Variance when not associated with a development that is subject to this chapter.
- (5) Clearing, filling and grading permit.
- (6) Sign permit.
- (7) Building permit for a fence or wall.
- (8) Right-of-way use permit.
- (9) Rezones/comprehensive plan amendments.
- (10) Planned action projects. (Ord. 876, Sec. 22, 2012; Ord. 811, Sec. 88, 2010)

(c) Transportation Exemptions. The transportation concurrency requirements, in this chapter, do not apply to the development activities listed below.

- (1) A single-family residence, duplex or accessory dwelling unit as defined in Chapter 14.08 LSMC.
- (2) Development activities that do not add new projected trips to key intersections listed in the City's Overview of Typical Traffic Study Requirements.
- (3) Development activities located within the city's subareas, as identified in Chapter 14.38 LSMC, that do not exceed the adopted subarea EIS thresholds and that do not add new projected trips to key intersections listed in the City's Overview of Typical Traffic Study Requirements, outside of subareas.
- (4) Development activities or uses generating 25 or fewer new p.m. peak hour trips.

#### 14.110.040 Review of Development Activities - Concurrency Testing

- (a) Application. All development applications for land use and/or building permits shall include a concurrency application, which the city will review for consistency with LSMC 14.110.070 to determine its impact on the transportation, parks, and sewer facilities. This review may be conducted before a development application is submitted to the city.
  - (1) Non-exempt development activities must include a traffic analysis to inform the concurrency decision. The scope of the traffic analysis shall be consistent with the requirements in the city's Overview of Typical Traffic Study Requirements.
  - (2) All development activities subject to the requirements of this chapter shall submit a traffic concurrency worksheet containing PM peak-hour trip estimates calculated using the latest edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual or other information supported by studies and data submitted by the developer.
  - (3) For potable water and sanitary sewer, availability letters from the utility purveyor will be used in conducting the concurrency test.
- (b) Certificate of Concurrency Approval. A certificate of concurrency will be issued under this chapter if it is determined that the adopted LOS for transportation, parks and sewer are met; and the project will not degrade the LOS below the adopted standard. Concurrency testing may rely on:
  - (1) Capacity provided by fully funded projects, including projects in the city's current Six-year Capital Facilities Plan;
  - (2) Projects funded for construction within six years by other agencies or jurisdictions; and

- (3) Improvements under contract as part of other approved development activities.
- (4) The concurrency testing shall consider development projects already in the pipeline but not yet completed. Development in the pipeline includes projects that either were vested prior to the adoption of this chapter or have received a certificate of concurrency.
- (c) Transferability. A certificate of concurrency runs with the land, for active permits and is valid only for the subsequent development approval(s) for the same parcel that has not expired under subsection(d) and is transferable to new owners of the original parcel for which it was issued.
- (d) Expiration. A certificate of concurrency will expire when:
  - (1) A complete land use or building permit application is not submitted within 180 days of the date of issuance; or
  - (2) The underlying land use permit application expires; or
  - (3) The accompanying land use or building permit expires. If that permit has no expiration date, the certificate of concurrency shall expire 12 months following its issuance; or
  - (4) The permit application is denied or revoked.
- (e) Once a certificate of concurrency expires, is revoked, or if development does not use the total capacity allotted, the unused capacity will be returned to the available pool of capacity.
- (f) Certificate of Concurrency Denial. A certificate of concurrency will not be approved under this chapter if degradation is caused beyond the adopted LOS standard unless mitigated to meet the LOS standard.

**14.110.040050 Level of Service Standards.**

- (a) Transportation. All transportation facilities shall maintain multimodal Levels of Service (LOS) in accordance with the adopted Comprehensive Plan or the applicable Subarea Plan. The city's concurrency requirements for transportation do not apply to state highways or private streets.
  - (1) Vehicular LOS: Intersection levels of service shall meet the vehicular LOS standards identified in the Comprehensive Plan.
  - (2) Vehicular LOS standards in subareas, as identified in Chapter 14.38 LSMC, shall meet the LOS standards identified in the Subarea Plan.
    - (i) If a development activity falls within the applicable planned action threshold, the project is deemed to meet concurrency requirements.
    - (ii) The city reserves its authority to require projects within subareas to evaluate intersections for level of service concurrency, including intersections within other subareas or outside of subareas, when the trip generation from the proposal adds new projected trips to key

intersections listed in the City's Overview of Typical Traffic Study Requirements and is not otherwise exempt under this chapter.

(3) Active Transportation LOS: Pedestrian and bicycle facility levels of service shall meet the active transportation LOS standards identified in the Comprehensive Plan.

(i) Active transportation LOS standards do not apply directly to determine concurrency for specific development projects.

(ii) The City shall consider active transportation LOS standards when it updates the annual Six-year Capital Improvement Plan.

(4) Transit LOS: Transit stop levels of service shall meet the transit LOS standards identified in the Comprehensive Plan.

(i) Transit LOS standards do not apply directly to determine concurrency for specific development projects.

(ii) The City shall consider Transit LOS standards when it updates the annual Six-year Capital Improvement Plan and for coordination with Community Transit.

(b) For the purpose of this section, vehicular level of service uses the methodology outlined in the most recent version of the Transportation Research Board's Highway Capacity Manual (HCM), which defines levels of service based on average delay per vehicle.

(1) Level of service standards for signalized intersections are based on the overall average delay per vehicle for the whole intersection. For signalized intersections, an average delay per vehicle greater than 80 seconds shall be defined LOS F; an average delay per vehicle between 55 and 80 seconds shall be defined LOS E; and an average delay per vehicle between 35 and 55 seconds shall be defined LOS D.

(2) Level of service standards at all-way, stop-controlled and roundabout intersections are based on the overall average delay per vehicle for the whole intersection. For these intersections, an average delay per vehicle greater than 50 seconds shall be defined LOS F; an average delay per vehicle between 35 and 50 seconds shall be defined LOS E; and an average delay per vehicle between 25 and 35 seconds shall be defined LOS D.

(3) Level of service standards at two-way, stop-controlled intersections are based on the average delay per vehicle for the worst traffic movement. For stop-controlled approaches, an average delay per vehicle greater than 50 seconds shall be defined LOS F; an average delay per vehicle between 35 and 50 seconds shall be defined LOS E; and an average delay per vehicle between 25 and 35 seconds shall be defined LOS D.

(a) Transportation. All City streets shall maintain an LOS C or better at peak hour traffic in residential areas and LOS E along arterials and collectors in other areas at peak hour.

(b) As part of the subarea plans, the level of service for the subareas has been modified from an intersection LOS Standard "C" or "E" to a system LOS Standard "E" for each subarea. The system would consist of key intersections and connecting roads servicing each subarea. Under this approach, the

~~LOS analysis would take the accumulative average LOS from intersections within the transportation network, while excluding intersections with State Route facilities.~~

- ~~(1) For the 20th Street SE Corridor Subarea, this would include all intersections within the defined subarea boundaries of the 20th Street SE Corridor with the exclusion of SR-9 intersections.~~
- ~~(2) For the Lake Stevens Center Subarea, this would include all intersections within the defined subarea boundaries of the Lake Stevens Center excluding SR-9 and SR-204 intersections.~~
- ~~(3) For the Downtown Lake Stevens Subarea, this would include all intersections within the defined subarea boundaries. The westbound leg of the intersection at Main Street/20th Street NE may fall below the defined LOS standard in 2035. Over the plan horizon, it is reasonable to accept a reduced LOS standard for the PM peak at this intersection because of physical constraints and given the vision for a mixed use district that functions as a local and regional destination, with the inclusion of multimodal transportation elements that emphasizes safe pedestrian amenities to maintain the character of the district.~~
- ~~(e) For the purpose of this section, transportation level of service shall be the percentage of the capacity of the roadway (number of cars that a road is capable of handling) which is actually used by traffic during any one hour. For example, if the roadway has a capacity to serve 100 cars per hour, and it is observed that there are 70 cars per hour on that road, the percentage is 70 percent, which is also called a volume/capacity ratio. LOS C shall be defined as having a volume/capacity ratio greater than 70 percent and less than or equal to 80 percent. For LOS D, that ratio is greater than 80 percent and less than or equal to 90 percent. For LOS E, that ratio is greater than 90 percent and less than or equal to 100 percent.~~

~~(dc) Parks. Per the Comprehensive Plan.~~

#### **14.110.050060 Relationship to the State Environmental Policy Act (SEPA).**

This chapter establishes ~~the~~ minimum standards which are to be applied to all ~~development proposals~~activities in order to provide transportation, parks and sewer improvements and is not intended to eliminate the application of SEPA to specific proposals. Each proposal shall be reviewed and be subject to the substantive authority of SEPA.

#### **14.110.060 Administration**

~~The Directors of Public Works and Planning and Community Development shall be responsible for the administration of this chapter including but not limited to determining application submittal requirements, records maintenance, monitoring and evaluation, and administration of a capacity waiting list.~~

**14.110.070 Review of Development Proposals – Concurrency Testing**

- (a) Application. Any proposed development which is subject to the chapter will be reviewed by the Planning and Public Works Directors to determine its impact on the transportation, parks, and sewer facilities. This review may be conducted before a development application is submitted to the City.
- (b) Certificate of Concurrency Approval. A certificate of concurrency will be issued under this chapter if it is determined that the adopted LOS for transportation, parks and sewer are met; and the project will not degrade the LOS below the adopted standard. Concurrency testing may rely on:
  - (1) Capacity provided by fully funded projects, including projects in the current six year Capital Facilities Plan;
  - (2) Projects funded for construction within six years by other agencies or jurisdictions; and
  - (3) Improvements under contract as part of other approved development proposals.
  - (4) The concurrency testing shall take into account development projects already in the pipeline but not yet completed. Development in the pipeline includes projects that either were vested prior to the adoption of this chapter or have received a certificate of concurrency.
- (c) Transferability. A certificate of concurrency runs with the land, is valid only for the subsequent development approvals for the same parcel, and is transferable to new owners of the original parcel for which it was issued.
- (d) Expiration. A certificate of concurrency will expire when:
  - (1) A complete land use or building permit application is not submitted within 120 days of the date of issuance; or
  - (2) The underlying land use permit application expires; or
  - (3) The accompanying land use or building permit expires. If that permit has no expiration date, the certificate of concurrency shall expire 12 months following its issuance; or
  - (4) The permit application is denied or revoked.
- (e) Once a certificate of concurrency expires, is revoked, or if development does not use the total capacity allotted, the unused capacity will be returned to the available pool of capacity.
- (f) Certificate of Concurrency Denial. A certificate of concurrency will not be approved under this chapter if degradation is caused beyond the adopted LOS standard unless mitigated to meet the LOS standard.

**14.110.080070 Methods for Meeting Concurrency.**

- (a) If mitigation is required to meet the LOS standard to maintain concurrency, the applicant may choose to:
  - (1) Reduce the size of the development until the standard is met; or
  - (2) Delay the development until the City and/or others provide needed improvements; or
  - (3) Design and/or construct the facilities necessary to achieve the LOS in compliance with Section 14.110.090080 considering nexus and proportionality of the impact to the level of service standard being exceeded.

**14.110.090080 Requirements for Design and Construction of Facilities Necessary to Achieve Adopted Levels of Service.**

(a) If the developer chooses to design and construct the facilities necessary to achieve the adopted LOS standard(s), the following requirements must be met:

- (1) Issuance of a final plat or building permit approval, which ever whichever comes first, will not be made unless improvements are made by the developer or sufficient financial security pursuant to Section 14.16A.180(d) is in place to ensure the improvements will be made within six years of the issuance of the approval, to mitigate the proportionate impact of the development activity. This allowance for up to a six-year deferral applies only to supplemental mitigation not normally required of the development.
- (2) The developer shall be responsible for engineering and design of the facilities and shall provide documentation showing the improvements will ensure the LOS is met. The developer shall receive City approval of the engineering and design of the facilities, which shall be consistent with accepted engineering standards and practices.
- (3) The developer shall enter into a detailed agreement with the City identifying the improvements required and the schedule for their completion. This shall include any necessary interim deadlines necessary to ensure the improvements are completed within the six-year time frame.
- (4) Alternatively, the city may accept a fee-in lieu, based on an alternatives analysis of needed improvements and an engineer's cost estimate, to mitigate a proportionate share of the impact created by the development activity. If a developer makes improvements to the sewer general facilities, those cost of those improvements shall be credited against the developer's general facilities charges, except no such credit shall be given if the developer is to be reimbursed through a latecomer's agreement. The credit shall not exceed the general facilities charge that would normally be applied to the project.
- (5) If a developer makes improvements to a transportation project that would otherwise require SEPA mitigation, the developer shall be given credit for the amount spent on that project against the SEPA mitigation required for that project, but not to exceed the mitigation that would normally be applied to the project.
- (6) The effect of the improvement shall not degrade another related objective. For example, adding a vehicular lane at the expense of eliminating a bike lane.
- (7) If a developer makes improvements to the sewer general facilities, those cost of those improvements shall be credited against the developer's general facilities charges, except no such credit shall be given if the developer is to be reimbursed through a latecomer's agreement. The credit shall not exceed the general facilities charge that would normally be applied to the project.
- (8) The project shall comply with the procedural and substantive requirements of the State Environmental Policy Act (SEPA).
- (89) The improvements shall not create a significant safety hazard.

(b) Supplemental Mitigation Denial Process. If the City determines that the proposed supplemental mitigation does not meet the requirements of this section, the Public Works and Planning and Community Development Directors may deny the issuance of a development activity will not receive a certificate of concurrency. (Ord. 811, Sec. 89, 2010)

**14.110.100090 Implementation of Strategies in Lieu of Capital Improvements.**

(a) With approval from the Public Works and Planning and Community Development Directors, non-construction strategies for reducing demand for public facilities, including payment of agreed in lieu fees, to assure LOS are met may be implemented if the following requirements are met:

- (1) The proponent clearly demonstrates to the satisfaction of the City that the proposed strategies have a demonstrated historical track record for effectiveness and reliability for projects similar to that being proposed.
- (2) The proponent shall provide an analysis as to how much capacity is available, which will provide a maximum amount of demand the project may put upon the public improvements.
- (3) The effectiveness of the strategies must be easily measured and annual reports must be provided to the City to ensure the actual demand actually put on the public improvements does not exceed the amount allocated to the development pursuant to subsection (a)(2) of this section.
- (4) The developer shall provide a financial guarantee for a period of up to ten-10 years which the City may use to construct the necessary improvements, at any time during that ten-10-year period, where it finds the demands on the public system exceed the amounts allocated to the project.

(b) For the purposes of this section, non-construction strategies include any programs which reduce demand for public facilities during peak hour constraints, including but not limited to car/van pooling, staggered work hours, or transfer flow of sewer use to off-peak hours.

**14.110.110100 Fees.**

The City shall charge processing fees to any individual that requests a concurrency determination or approval of a supplemental mitigation program. The fees shall be set by Council resolution.

**14.110.115110 Concurrency of Projects Vested in the County Pre-Annexation.\***

Pursuant to the terms of an interlocal agreement with Snohomish County, the City will accept the County's concurrency determination for projects vested to the County Code, where the subject property of a vested application has been annexed to the City since the concurrency determination was made by the County. The terms of the concurrency, including expiration, shall be regulated by the vested County code. (Ord. 859, Sec. 2, 2011)

\* Code reviser's note: Section 3 of Ordinance 859 adopts sections of the Snohomish County Code concerning mitigation fees and concurrency determination. The text of these sections is attached as Exhibit 1 to the ordinance, on file with the City Clerk's office.

**14.110.120 Appeals.**

Appeals of requirements imposed pursuant to the chapter shall be governed by the appeal provisions of Section 14.16A.265. (Ord. 903, Sec. 56, 2013; Ord. 643, Sec. 1, 2001)