

Chapter 15.40
INTERIM-TRANSPORTATION
CONCURRENCY
MANAGEMENT

Sections:

- 15.40.010 Purpose.
- 15.40.020 Authority.
- 15.40.030 Definitions
- 15.40.040 Exempt development.
- 15.40.050 Level of service standards.
- 15.40.060 Concurrency evaluation.
- 15.40.070 Concurrency determination.
- 15.40.080 Certificates of transportation capacity.
- 15.40.090 Administrative reconsideration.
- 15.40.100 Appeal.
- 15.40.110 Annual transportation concurrency report.

15.40.010 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 365-195510 and 365-195-835. No development permit shall be issued except in accordance with this chapter. (.)

15.40.020 Authority.

The community development director, or his/her designee, shall be responsible for implementing and enforcing this chapter. (.)

15.40.030 Definitions.

- (1) "Adequate transportation facilities" means transportation facilities which have the capacity to serve development while meeting the city's established level of service standards.
- (2) "Calculated level of service" means the ratio of the forecast Peak Hour 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 p.m. peak hour and is expressed in terms of vehicles per hour. The capacity used in the concurrency evaluation is defined by the city and based on the committed transportation system.
- (4) "Certificate of transportation concurrency" is the final document issued by the City of Ferndale, confirming availability and reserving capacity on the city's transportation facilities specific to the proposed development or development permit.

(5) "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 city 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) City streets and roadways;
- (b) State highways and freeways within the city;
- (c) Bus routes;
- (d) Park and ride lot locations;
- (e) Trails, pathways, routes, sidewalks or other non-motorized 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 city.

(6) "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 two (2) years. EAGLE Standards for retail development may require transportation facilities to be in place at the time of development (by reference to Retail Design Standards). For this Code section "concurrency" means "Transportation Concurrency".

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

(8) "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.

(9) "Department" means the community development department of the City of Ferndale.

(10) "Development permit" means any order, permit or other official action of the city granting, or granting with conditions, an application for development as defined by FMC 14.09 which authorizes the commencement of development activity.

(11) "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.

(12) "Director" means the community development director, or his/her designee, herein designated as the public works director.

(13) "E.A.G.L.E." means (E)nergy Efficient, (A)dvanced Technologies, (G)reater Good, (L)ow Impact, and (E)conomic Development; and is an indicator-based development review

program used to assist in determining how a project will achieve City-established retail development standards.

(14) "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 two most current years of the six-year transportation improvement program;
- (b) Revenue from federal or state grants for which the city has received notice of approval; and
- (c) Revenue that is assured by an applicant in a form approved by the city in a voluntary agreement.

(15) "Forecast Peak Hour Volume" means a forecast p.m. Peak Hour 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 City of Ferndale records, and the traffic anticipated from the subject development.

(16) "Frontage Improvements" is defined in FMC 12.14.

(17) "Growth Management Act" means the Washington State Growth Management Act (Chapter 36.70A RCW) and any adopted amendments.

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

(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 City of Ferndale Comprehensive Plan based on the ratio of forecast Peak Hour Volume 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.
- (c) Transportation impacts that degrade from the existing Level of Service are mitigated prior to the completion of a project or through development agreements between the City and the developer as each phase is completed.

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

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

(24) "P.M. peak hour" means the one-hour weekday afternoon period during which the

greatest volume of traffic uses the road system, as identified separately for each segment of a transportation facility.

(25) "SEPA" means the State Environmental Policy Act (Chapter 43.21 RCW) as implemented by the City of Ferndale.

(26) "Service provider" means the jurisdiction, department or agency responsible for providing the facility.

(27) "Six-year transportation improvement program" means the expenditures programmed by the city for capital purposes over the next six-year period in the six-year transportation improvement program pursuant to RCW 35.77.010.

(28) "Traffic engineer" means an engineer licensed in the state of Washington qualified to perform traffic impact analyses.

(29) "Transportation facilities" means all principal arterials, major arterials, minor arterials, collector arterials, major collectors, and minor collectors, associated intersections, traffic control devices and sidewalks, as well as adjacent multi-modal bicycle and pedestrian friendly facilities in the City of Ferndale as defined in City of Ferndale Development Standards Chapter 6, "City Street Types and Monumentation," incorporated herein by this reference.

(30) "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, multi-modal pedestrian and bicycle friendly facilities, signalization and channelization. (.)

(31) Transportation Impact Analysis (TIA) refers to a trip generation and distribution study performed by a traffic engineer to identify the level of impact a proposed development or use will have on an impacted transportation facility.

15.40.040 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 the ordinance codified in this chapter, so long as the original proposal has not been modified after the effective date of the ordinance codified in this chapter 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 and anticipated impacts do not change.
- (4) Development applications for public buildings, including but not limited to:
 - (a) Public buildings;
 - (b) Public parks and recreation facilities; and
 - (c) 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 where cumulative impact does not add any

AM/PM Peak Hour trips;

- (b) Subdivision of land that will result in no additional AM/PM Peak Hour trips;
- (c) Nonresidential developments that generate no additional 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 that does not exceed 25% of the structure's assessed value;
- (e) Interior renovations with no change in use or increase in the number of development units that does not exceed 25% of assessed value;
- (f) Interior completion of a structure for use(s) generating the same or less Peak Hour Volume as the existing use or a previously approved use;
- (g) Replacement structure with no change in use or increase in the number of development units, if accomplished within 12 months of loss of structure being replaced;
- (h) Temporary construction trailers;
- (i) Driveway resurfacing or parking lot paving;
- (j) Re-roofing structures; and
- (k) Demolitions
- (l) Building maintenance and upkeep.

(6) At his or her discretion, the director may require of an applicant for a development permit that does not qualify as exempt pursuant to subsection (5) of this section, a trip generation and distribution study (Transportation Impact Analysis) performed by a traffic engineer to confirm that the proposed development or use does not result in an impacted transportation facility. The applicant will be required to implement the findings of said study.

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

15.40.050 Level of service standards.

The transportation level of service standards are described and contained in the City of Ferndale Comprehensive Plan and any adopted modifications. ().

15.40.060 Concurrency evaluation.

(1) Application.

- (a) City review of all applications for development permits, unless exempted by FMC 15.40.030, shall include a concurrency evaluation.
- (b) Threshold shall be as identified in TIA Guidelines;
- (c) For a transportation concurrency evaluation, the applicant shall provide a traffic study prepared by a traffic engineer, which shall compare the calculated level of service to the adopted level of service standard for each impacted transportation facility. The traffic study shall comply with TIA guidelines and, at a minimum, provide the following information:
 - (i) Number of peak hour trips generated by the development according to the ITE trip generation manual or other method approved by the director;
 - (ii) Anticipated trip distribution;

- (iii) The current calculated level of service of all impacted transportation facilities;
 - (iv) The future calculated level of service of all impacted transportation facilities incorporating traffic volumes from the proposed development;
 - (v) Any proposed mitigation; and
 - (vi) The future calculated level of service of all impacted transportation facilities with the incorporation of proposed development traffic volumes and any proposed mitigation.
- (c) The concurrency evaluation shall be accompanied by an application on a form provided by the department and an application fee as provided in the city's Unified Fee Schedule.
- (d) The concurrency evaluation and determination shall be completed prior to:
- (i) Issuance of administrative approval/ denial of the project permit if SEPA review is not a requirement of the project;
 - (ii) Issuance of the DNS, MDNS or DS if SEPA review is a requirement of the project; or
 - (iii) Issuance of the staff report to the hearing examiner if there is a hearing before the hearing examiner and SEPA review is not a requirement of the project.
- (e) Development permits for phased developments shall have the concurrency evaluation completed for the entire project based on highest traffic impact use which may occur. A developer may elect to have the concurrency evaluation undertaken for less than the entire project, if and only if:
- (i) The director agrees to such limited evaluation;
 - (ii) Each phase shall include all of the infrastructure to service that phase;
 - (iii) There is specific written approval from the city 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. (.)

15.40.070 Concurrency determination.

The City department 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 P.M. Peak Hour Volume and the committed transportation system.

(1) If the concurrency evaluation shows that the ratio of the forecast P. M. Peak Hour 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 and a certificate of transportation capacity according to the provisions of FMC 15.40.070.

(2) If the concurrency evaluation shows that the ratio of the forecast P.M. Peak Hour 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 of the issuance of the certificate of transportation capacity. The applicant may:

- (a) Amend the application within 90 days in such a way to ensure that the ratio of

the forecast P.M. Peak Hour 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:

- (i) Modify the project to reduce the impact on affected facilities;
- (ii) Mitigate the impacts of the project to ensure concurrency;
- (iii) Phase the project to coincide with planned improvements that will ensure concurrency;
- (iv) Arrange with the service provider by formal agreement to provide the additional capacity of facilities required; and/or
- (v) Propose transportation strategies that will reduce the demand for capacity; and
- (vi) multi-modal improvements.

(b) Ask the director for formal reconsideration of the concurrency evaluation in accordance with the provisions of FMC 15.40.080;

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

(d) Appeal the denial per FMC 14.09.

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

15.40.080 Certificates of transportation capacity.

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

(2) A certificate of transportation capacity 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.

(3) Phasing. A certificate of transportation capacity shall be issued for all phases of a development permit, except when the conditions set forth in FMC 15.40.050(1)(e) 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.

(4) 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.

(5) 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.

(6) 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 a single extension of up to one year.

(7) 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.

(8) Abandoned Uses. Shall be administered in accordance with FMC 18.58.060().

15.40.090 Administrative reconsideration.

(1) 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.

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

15.40.100 Appeal.

(1) The results of an administrative reconsideration pursuant to FMC 15.40.080 may be appealed to the hearing examiner, as provided by FMC Chapter 14.09.030.

(2) Any application for an appeal shall be accompanied by a fee as defined in the city's Unified Fee Schedule.

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

15.40.110 Annual transportation concurrency report.

The director shall prepare an annual report presenting current capacities and levels of service for affected facilities. The report shall identify any known existing and projected service deficiencies and recommend steps necessary to achieve concurrency, including, but not limited to, reevaluating level of service standards, improvement financing strategies and/or reassessment of land use policies. The report shall be used in the review and update of the city's six-year transportation improvement program and the city's six-year capital improvement program. ().