December 20, 1994 Introduced By: CHRISTOPHER VANCE

Proposed No.: 94-776

ORDINANCE NO. 11617

AN ORDINANCE relating to transportation; creating a new chapter outlining the relationship of county transportation programs; creating new chapters for the integrated transportation program, transportation concurrency, roadway mitigation payments, and intersection standards; and adding new sections to K.C.C. Title 14 to implement the King County Comprehensive Plan in accordance with the Growth Management Act.

PREAMBLE:

For the purpose of effective transportation management, land use planning and regulation, the King County Council makes the following legislative findings:

1. King County has adopted the 1994 King County Comprehensive Plan to meet the requirements of the Washington State Growth Management Act (GMA).

2. The GMA requires the County's development regulations, which include standards for transportation concurrency, roadway and intersection levels of service, and demand management programs to be consistent with its Comprehensive Plan by December 31, 1994.

3. The changes to the King County Title 14 contained in this Ordinance are needed to bring Title 14 into conformance with the 1994 King County Comprehensive Plan, as required by the GMA. As such they bear a substantial relationship to, and are necessary for, the public health, safety and general welfare of King County and its residents.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. There is added to K.C.C. Title 14 a new section to read as follows:

Title 14 (Roads and Bridges) of the King County Code is hereby amended in accordance with R.C.W. 36.70A to adopt development regulations to implement the King County comprehensive plan.

SECTION 2. There is added to K.C.C. Title 14 a new chapter to read as follows:

"Integrated Transportation Program (ITP)"

SECTION 3. There is added to K.C.C. Title 14 a new section to read as follows:

Components of the integrated transportation program. Components of the integrated transportation program: There are three (3) components of the Integrated Transportation Program. These components are as follows:

A. Transportation Concurrency Management (TCM), by which King County will regulate new development based on adequate transportation improvements needed to maintain level of service standards, in accordance with R.C.W. 36.70A.070(6) and the King County comprehensive plan.

B. Mitigation Payment System (MPS), by which King County will apply transportation impact fees to new development for collecting a fair and equitable share of transportation improvement costs that are needed in accordance with R.C.W. 82.02 and the King County comprehensive plan.

C. Intersection Standards (IS) by which King County will evaluate intersections affected by new development to assure safe and efficient operation and that improvements to mitigate the adverse impacts of such developments are completed, in accordance with the State Environmental Policy Act (SEPA), K.C.C. 20.44.080, and the King County comprehensive plan.

SECTION 4. There is added to K.C.C. Title 14 a new section to read as follows:

Relationships among the three components of the ITP.

A. Permit Processes:

1. Certificate of Concurrency: Prior to submission of a development application, a request for a certificate of concurrency shall be initiated by a submittal to the department of development and environmental services (DDES) on a prescribed form containing information describing the location, uses, intensities, trip generation characteristics and pertinent information for the intended development. The certificate is a prerequisite for a complete development application. The DDES and the department of public works (DPW), or their successor agencies, shall use the submitted information to determine the net trips to be generated, taking into account commute trip reduction strategies, internal travel for mixed-use development, and pass-by trips from existing traffic flows, and shall determine whether the development passes the concurrency test prescribed in the TCM chapter of this ordinance.

2. Development Application: Following the submission of a development application, the DPW shall determine the transportation impact fee to be paid under the MPS chapter of this title and shall determine the traffic impacts of the proposed development on roadway intersections that will be adversely impacted and which must be mitigated using the IS chapter of this ordinance.

B. Calculation of Trips Generated by a Development:

1. The vehicular trips expected to be generated by a proposed development shall be calculated as of the time of application for a certificate of concurrency, using standard generation rates published by the Institute of Transportation Engineers, other standard references, or from other documented information and surveys approved by the DPW.

2. The DPW may approve a reduction in generated vehicle trips calculated pursuant to the preceding subsection based on the types of land uses that are to be developed, on the expected amount of travel internal to the development, on the expected pass-by trips from existing traffic, or on the expected reduction of vehicle traffic volumes. Such reduction shall b ed when calculating TAM, MPS and IS, including any impa and mitigation fees and costs for which the development shall be liable.

The calculation of vehicular trip reductions as described in this section shall be based in all cases upon sound and recognized technical information and analytical process that represent current engineering practice. In all cases, the DPW shall have final approval of all such data, information, and technical procedures used to calculate trip reductions.

C. Calculatio

1. TAM Calcul ns: King County shall determine the Transportation Adequacy Measure (TAM) for any zone according to policies T-303, T-304, and T-306 of the Comprehensive Plan. The TAM is a two part analysis, involving (1) the average weighted volume to capacity (v/c) ratio of arterials and highways serving the zone (TAM value) and (2) the existence of roadways critical to the zone's access not funded for improvement in the committed network (unfunded critical links). If an unfunded critical link exists, then the zone shall be deemed to fail the concurrency test until the critical link is improved.

Administrative rules issued under the authority of this ordinance shall contain a detailed technical description of the calculation of TAM and the list of potential unfunded critical links to be monitored.

2. IS Calculations: Intersection level of service shall be calculated according to the most recent Highway Capacity Manual or an alternative method approved by the DPW.

D. Standards

1. The standard for the TAM value of a zone shall be those maximum average v/c zonal scores listed in Comprehensive Plan Policy T-305 for Transportation Service Areas, and displayed in section 27 of the TCM chapter of this title.

2. The unfunded critical link standard shall apply to the links identified by administrative rule, which have a volume to capacity ratio of 1.1 or more, and which would carry more than thirty (30) percent of the zone traffic from a residential development or more than thirty (30) percent of the traffic from a commercial development. The concept of unfunded critical links shall not apply to roads in Transportation Service Areas 1 and 2 if HOV lanes and transit service are available now or expected to be available within six (6) years in the unfunded critical link corridor. Unfunded critical links shall be applied only on those roadways in unincorporated King County unless they are identified in a city according to an interlocal agreement.

3. The intersection standard for all intersections shall be "E" as required by the IS chapter and calculated according to the most recent Highway Capacity Manual, or approved alternative method.

E. Application of Standards: The standards set forth above shall be used in the ITP as follows:

1. In the TCM chapter, zone evaluation of concurrency shall be calculated using the TAM value, the TAM standard for the zone, and unfunded critical links analysis.

2. In the identification of improvement needs for the Transportation Needs Report (TNR), the TAM and critical link standards will be used to determine needed improvements, together with safety, operational, multimodal, traffic congestion, and other criteria. These improvement needs shall be the source of projects included in the TNR, Capital Improvement Program (CIP), and MPS list.

3. For the determination of traffic impacts for the SEPA evaluation of a proposed development, the Intersection Standard will be used, as well as other criteria for bicycle/pedestrian, traffic congestion, safety, and road design.

F. Administrative Fees: Fees for ITP shall be imposed as follows:

1. An administrative fee of sixty dollars ($60.00) shall be charged to the applicant for the TAM determination of concurrency of a proposed development using analytical materials currently available to the DPW. In some cases, existing analytical materials may not be sufficient to make a determination of concurrency for the proposed development and an individual concurrency test will be required. An administrative fee of three hundred and twenty dollars ($320.00) shall be charged to the applicant for the individual determination of concurrency of a proposed development. The method and time of collection of

administrative fees for the concurrency test shall be stated in the administrative rules for this title.

2. All developments subject to the MPS fees shall pay an administrative fee as established by section 47 or 48 at the time of application for an MPS determination. Payment for impact mitigation fees under MPS shall be paid at the time a development permit is issued, provided that residential developments may defer payment until building permits are issued.

3. No administrative fees shall be charged for IS review, however, the owner of a proposed development is responsible for the costs of any traffic study needed to determine traffic impacts and mitigation measures at intersections, as determined by the director.

G. Relationship to SEPA: The need for the environmental assessment of a proposed development must be determined by the department of development and environmental services, following the filing of a completed permit application. Impacts on the road system will be mitigated through MPS fees. Impacts on intersections will be mitigated through the provisions of the IS chapter of this ordinance.

Nothing in this ordinance shall cause a developer to pay mitigation and impact fees more than once for the same impact. Improvements and mitigation measures shall be coordinated by the director with other such improvements and measures attributable to other proposed developments, and with the county road improvement program so that the county road system is improved efficiently and effectively, with minimum costs to be incurred by public and private entities. The provisions of this Title do not supersede or replace the provisions of the County SEPA authority as enacted in K.C.C. 20.44.

SECTION 5. There is added to K.C.C. Title 14 a new section to read as follows:

Filing Appeals.

A. Appeals of the department's final decisions relative to this ordinance shall be filed with the director or the director's designee.

B. Such appeals shall be in written form, stating the grounds for the appeal, and shall be filed within ten (10) calendar days of the receipt of notification of the department's final appealable decision in the matter being appealed.

SECTION 6. There is added to K.C.C. Title 14 a new section to read as follows:

Grounds for Appeal.

A. For appeals of denial or conditional approval of a certificate of concurrency, the appellant must show that:

1. The department committed a technical error,

2. Alternative data or a traffic mitigation plan submitted to the department was inadequately considered,

3. The action of the department would substantially deprive the owner of all reasonable use of the property,

4. Conditions required by the department for concurrency are not related to the concurrency requirement, or

5. The action of the department was arbitrary and capricious.

B. For appeals of the MPS fee, the appellant must show that the department:

1. Committed an error in:

a. calculating the development's proportionate share, as determined by an individual fee calculation or, if relevant, as set forth in the fee schedule, or

b. granting credit for benefit factors; or

2. Based the final decision upon incorrect data; or

3. Gave inadequate consideration to alternative data or mitigations submitted to the department.

C. For appeals of IS improvements, the appellant must show that:

1. The department committed a technical error,

2. Alternative data or a traffic mitigation plan submitted to the department was inadequately considered, or

3. Conditions required by the department are not related to improvements needed to serve the proposed development.

SECTION 7. There is added to K.C.C. Title 14 a new chapter to read as follows:

"Transportation Concurrency Management (TCM)"

SECTION 8. There is added to K.C.C. Title 14 a new section to read as follows:

TCM - Authority and Purpose.

A. This chapter is enacted pursuant to King County's powers as a home rule charter county; Article 11, § 11 of the Washington State Constitution; and the Growth Management Act, RCW 36.70A.070.

B. It is the purpose of this chapter to:

1. Provide adequate levels of service on transportation facilities for existing use as well as new development in unincorporated King County;

2. Provide adequate transportation facilities that achieve and maintain county standards for levels of service as provided in the Comprehensive Plan, as amended; and

3. Ensure that county level of service standards are achieved "concurrently" with development (as required by the Growth Management Act) by denying approval of development that would cause the level of service on transportation

facilities to decline below county standards. Applicants for development may propose mitigation measures that will achieve and maintain the county's standard for level of service.

SECTION 9. There is added to K.C.C. Title 14 a new section to read as follows:

Capital Improvement Program. Capital Improvement Program (CIP): the expenditures programmed by King County for capital purposes over the next six (6) year period in the CIP most recently adopted by the county council.

SECTION 10. There is added to K.C.C. Title 14 a new section to read as follows:

Certificate of Concurrency. Certificate of concurrency: the document issued by the county indicating:

A. The location or other description of the property on which the development is proposed,

B. The number of development units and specific uses, densities, and intensities that were tested for concurrency and approved,

C. The type of development approval for which the certificate of concurrency is issued,

D. An effective date, and

E. An expiration date.

SECTION 11. There is added to K.C.C. Title 14 a new section to read as follows:

Committed Network for the Transportation Adequacy Measure. Committed Network for the Transportation Adequacy Measure: the system of transportation facilities used to calculate the Transportation Adequacy Measure to determine the level of service of transportation for a zone. The network includes transportation facilities that are needed to provide the level of service standard, including existing facilities and proposed facilities which are fully funded for construction in the most currently adopted six (6) year roads CIP or for which voluntary financial commitments have been secured. Projects to be provided by the state, cities or other jurisdictions may become part of the committed network.

SECTION 12. There is added to K.C.C. Title 14 a new section to read as follows:

Concurrency. Concurrency: means transportation improvements or strategies are in place at the time of development or that a financial commitment is in place to complete the improvements or strategies within six (6) years, according to R.C.W. 36.70A.070(6).

SECTION 13. There is added to K.C.C. Title 14 a new section to read as follows:

Concurrency Test. Concurrency Test: the determination of an applicant's impact on transportation facilities by the comparison of the level of service of the concurrency zone which includes the proposed development to the level of service standard for that zone. A concurrency test must be passed in order to obtain a certificate of concurrency.

SECTION 14. There is added to K.C.C. Title 14 a new section to read as follows:

Concurrency Zone. Concurrency Zone: the zones depicted in the King County Mitigation Payment and Concurrency Zone Map which is adopted as Attachment A of this ordinance and is on file with the clerk of the council. The director of DPW may change the boundaries of such zones by including such changes in the administrative rules for this Title, filing such changes with the clerk of the council, and giving public notice of such changes.

SECTION 15. There is added to K.C.C. Title 14 a new section to read as follows:

Department. Department: the department of public works or its successor agency.

SECTION 16. There is added to K.C.C. Title 14 a new section to read as follows:

Development. Development: specified improvements or changes in use designed or intended to permit a use of land which will contain more dwelling units or buildings than the existing use of the land, or to otherwise change the use of the land or buildings/improvements on the land in a manner that increases the amount of vehicle traffic generated by the existing use of the land, and that requires a development permit from King County. This definition shall not pertain to the rezoning of land or a UPD permit.

SECTION 17. There is added to K.C.C. Title 14 a new section to read as follows:

Development Approval. Development Approval: any order, permit or other official action of the county granting, or granting with conditions an application for development, but not pertaining to the rezoning of land or a UPD permit.

SECTION 18. There is added to K.C.C. Title 14 a new section to read as follows:

Development Units. Development Units: The proposed quantity of development measured by dwelling units for residential development and square feet for non-residential development, upon which are based the calculations of TAM for the determination of concurrency.

SECTION 19. There is added to K.C.C. Title 14 a new section to read as follows:

Financial Commitment. Financial Commitment consists of the following:

A. Revenue designated in the most currently adopted CIP for transportation facilities or strategies needed in the committed network for the Transportation Adequacy Measure to test for concurrency. The financial plan underlying the adopted CIP identifies all applicable and available revenue sources and forecasts these revenues through the six (6) year period with reasonable assurance that such funds will be timely put to such ends. Projects to be used in defining the committed network shall represent those projects which are fully funded for construction in the six (6) years of the CIP. This commitment is annually reviewed through the annual budget process;

B. Unanticipated revenue from federal or state grants for which the county has received notice of approval; or

C. Revenue that is assured by an applicant in a form approved by the county in a voluntary agreement.

SECTION 20. There is added to K.C.C. Title 14 a new section to read as follows:

Peak period. Peak period: the one-hour weekday period during which the greatest volume of traffic uses the road system identified separately for each roadway section.

SECTION 21. There is added to K.C.C. Title 14 a new section to read as follows:

Reservation and reserve. Reservation and reserve: development units are set aside in the county's concurrency records in a manner that assigns the units to the applicant and prevents the same units being assigned to any other applicant.

SECTION 22. There is added to K.C.C. Title 14 a new section to read as follows:

Transportation facilities. Transportation Facilities: principal, minor and collector arterial roads, streets, state highways, freeways, intersections, transit and high occupancy vehicle facilities, and non-motorized facilities (i.e., for bicycles or pedestrians). Transportation facilities include any such facility owned, operated or administered by the State of Washington and its political subdivisions, including the county and cities.

SECTION 23. There is added to K.C.C. Title 14 a new section to read as follows:

Transportation Strategies. Transportation Strategies: transportation demand management strategies and other techniques or programs that reduce single-occupant vehicle commute travel.

SECTION 24. There is added to K.C.C. Title 14 a new section to read as follows:

TCM - Requirement for Certificate of Concurrency.

Each applicant for a development approval, except as provided in subsection 26A of this ordinance, shall present a certificate of concurrency.

SECTION 25. There is added to K.C.C. Title 14 a new section to read as follows:

TCM - Concurrency Test.

A. Applications for certificates of concurrency, and the resulting concurrency test, shall be completed prior to application for development approval. For a UPD permit, applications for certificates of concurrency, and the resulting concurrency test, shall be completed prior to issuance of a UPD permit.

B. Applications for certificates of concurrency shall be submitted to the department of development and environmental services on forms provided by the department.

C. The county shall perform a concurrency test for each application for a certificate of concurrency.

D. The county shall conduct the concurrency test first for the earliest completed application received. Subsequent applicants will be tested in the same order as the county receives completed applications.

E. The county shall not issue a certificate of concurrency unless there are adequate transportation facilities to meet the level of service standards for existing and approved uses and the impacts of the proposed development.

F. In conducting the concurrency test, the county shall use standard trip generation rates, such as those reported by the Institute of Transportation Engineers. An applicant may submit with the application for certification of concurrency a calculation of alternative trip generation rates for the proposed development. The director shall review the alternate calculations and make a written determination within ten (10) business days of submittal as to whether such calculation will be used in lieu of the standard trip generation rates. The director shall adjust the trip generation forecast of proposed development to account for allowances determined pursuant to the Mitigation Payment System's procedures for transportation strategies, including transportation demand management reductions.

G. If the level of service is equal to or better than the adopted standards, the concurrency test is passed, and the applicant shall receive a certificate of concurrency.

H. If the level of service is worse than the adopted standards, the concurrency test is not passed, and the applicant shall select one of the following options:

1. Accept a ninety (90)-day reservation of transportation facilities that are available, and within the same ninety

(90)-day period amend the application to reduce the need for transportation facilities to the units that are available, or voluntarily arrange for the transportation facilities needed to achieve concurrency. Reduction of need can be through reduction of the size of the development (so long as minimum density requirements continue to be met), reduction of trips generated by the original proposed development, phasing of the development to match future transportation facility construction; or

2. Accept the denial of an application for a certificate of concurrency; or

3. Appeal the denial of the application for a certificate of concurrency, pursuant to the provisions of sections 5 and 6 of this ordinance. The county shall reserve any available development units during the appeal.

I. The concurrency test shall be performed only for the specific property, uses, densities and intensities based on information provided by the applicant and included in the certificate of concurrency. Changes to the uses, densities, and intensities that create additional impacts on transportation facilities shall be subject to an additional concurrency test.

SECTION 26. There is added to K.C.C. Title 14 a new section to read as follows:

TCM - Exemptions from Concurrency.

A. The following applications for development approval are exempt from the concurrency test, and may commence development without a certificate of concurrency:

1. Development that is vested prior to the effective date of this ordinance is exempt for the development approval for which vested status was achieved;

2. Any development that is categorically exempt from environmental review according to K.C.C. 20.44.040, except short plats;

3. Renewals of previously issued, unexpired permits; and

4. Expansions or phases of projects that were disclosed by the applicant and subject to a concurrency test as part of the original application (i.e., phased development), provided that a certificate of concurrency was issued for the expansion or subsequent phase.

B. In order to monitor the cumulative effect of exempt development approvals on the level of service of transportation facilities, the county shall add the impacts of exempt development approvals to the Transportation Adequacy Measure and all other relevant concurrency monitoring records. Development units shall be allocated to vested developments based on the amount such vested developments are likely to need on an annual basis. The

allocation shall be based on each vested development's historical building patterns over recent years. If no such historical record or pattern can be determined for a vested development, then the allocation to each year of the first six (6) years shall be one-sixth of the construction activity remaining to be built in the development. All allocations of facility capacity to vested development shall be subtracted from the remaining capacity available for development that is not vested.

SECTION 27. There is added to K.C.C. Title 14 a new section to read as follows:

TCM - TAM Standards.

A. The following are the TAM standards for each Transportation Service Area, as adopted in the King County Comprehensive Plan Policy T-305, provided there are no unfunded critical links affecting the concurrency zone:

Transportation Service Area	Maximum Averaged V/C Zonal Score	Average TAM Standard
Transportation Service Area 1 with adequate HOV and transit service	> 1.0	F
Transportation Service Area 1 without adequate HOV and transit service	0.99	E
Transportation Service Area 2	0.99	E
Transportation Service Area 3	0.89	D
Transportation Service Area 4	0.79	C
Transportation Service Area 5	0.69	B

For the purpose of this section, "adequate HOV and transit service" means that those services planned for Transportation Service Area 1 are in operation. The standard in each concurrency zone or part thereof shall be the same as for the Transportation Service Area in which the zone or part is located. In the event that a concurrency zone is affected by one or more unfunded critical links, the concurrency zone shall be considered to fail the standard for the zone.

B. A certificate of concurrency shall not be issued in any part of a concurrency zone if the standards in this section are not achieved and maintained for the zone as a whole, or the portion of the zone in the Transportation Service Area in which the development is proposed.

SECTION 28. There is added to K.C.C. Title 14 a new section to read as follows:

Update of TAM. Update of TAM: Levels of service shall be monitored and the traffic model for the Transportation Adequacy Measure shall be updated at least once per year. The monitoring and update process shall include traffic volumes, approval of additional development, completion of previously approved development, improvements to transportation facilities, and the effect of transportation strategies.

SECTION 29. There is added to K.C.C. Title 14 a new section to read as follows:

TCM - Certificate of Concurrency.

A. A certificate of concurrency shall be issued by the director or the director's designee. Issuance of a certificate creates a rebuttable presumption that the proposed development satisfies the concurrency requirements of this chapter. The determination of concurrency shall be final at the time of development approval. The issue of concurrency may be raised as part of the review process for the development application for which the certificate of concurrency was issued.

B. Upon issuance of a certificate of concurrency, the county shall reserve development units on behalf of the applicant, and indicate the reservation on the certificate of concurrency.

C. A certificate of concurrency shall expire if the development for which concurrency is reserved is not applied for within ninety (90) days of issuance of the certificate of concurrency. A certificate of concurrency shall be required in application for a formal subdivision plat under K.C.C. 19.36.045 and for a short plat under K.C.C.19.26.020.

D. A certificate of concurrency shall be valid for the application period and subsequently for the same period of time as the development approval which is issued pursuant to the certificate of concurrency. If the development approval does not have an expiration date, the certificate of concurrency shall be valid for five (5) years from the date of issuance.

E. A certificate of concurrency may be extended according to the same terms and conditions as the underlying development approval. If a development approval is granted an extension, the certificate of concurrency, if any, shall also be extended, except that certificate of concurrency shall not be extended more than two (2) times without reason deemed sufficient by the director of DPW.

F. A certificate of concurrency can be extended to remain in effect for the life of each subsequent development approval for the same parcel, as long as the applicant obtains the subsequent development approval prior to the

expiration of the earlier development approval. No development shall be required to hold more than one (1) valid certificate of concurrency, unless the applicant or subsequent owner proposes changes or modifications to the property location, density, intensity, or land use that creates additional impacts on transportation facilities.

G. A certificate of concurrency runs with the land and is valid only for subsequent development approvals for the same parcel, and to new owners of the original parcel for which it was issued. A certificate of concurrency cannot be transferred to a different parcel and shall be limited to uses and intensities for which it was originally issued.

H. Upon subdivision of a parcel that has obtained a certificate of concurrency, the county shall replace the certificate of concurrency by issuing a separate certificate of concurrency to each subdivided parcel, assigning to each a pro rata portion of the development units of the original certificate. The director may modify such assignment upon petition of the owner.

I. A certificate of concurrency shall expire if the underlying development approval expires or is revoked or denied by the county.

J. All development approvals that voluntarily provide funding for one (1) or more transportation facilities by the development or entities other than the county shall be conditioned to require that prior to the issuance of any final development approval the availability of such transportation facilities or financial arrangements has been confirmed.

K. Upon annexation of any development, the provisions for the certificate of concurrency shall be enforced by the interlocal agreement.

SECTION 30. There is added to K.C.C. Title 14 a new section to read as follows:

TCM - Fees.

A. The county shall charge an administrative fee for conducting the concurrency test in accordance with section 4F of this ordinance. The concurrency test fee shall not be refundable.

B. The following types of development are exempt from the concurrency test fee:

1. All applications that are exempt from the concurrency test pursuant to section 26 of this ordinance, and

2. Development by municipal, county, state, and federal governments, and special districts (as that term is defined by state law).

SECTION 31. There is added to K.C.C. Title 14 a new section to read as follows:

TCM - Provide Needed Transportation Facilities.

A. The county shall determine that transportation facilities are available to support development at adopted TAM standards within six (6) years of the impacts of such development. The county shall require at the time the certificate of concurrency is issued that:

1. The necessary facilities and services are in place at the time a development approval is issued; or

2. The necessary facilities will be complete within six (6) years of development approval:

a. The necessary facilities are under construction at the time a development approval is issued, and financial commitment is in place to complete the necessary facilities within six (6) years of issuance of development approval; or

b. The necessary facilities are the subject of a binding executed contract or development agreement which provides for the actual construction or financial commitment of the required facilities, guarantees that the necessary facilities will be in place within six (6) years of issuance of development approval, and provides that the capital project is included in, or will be added to, the committed network for the Transportation Adequacy Measure, the Transportation Needs Report, and the six (6)-year Capital Improvements Program; or

c. The county has in place financial commitments to complete the necessary public facilities or strategies within six (6) years of issuance of development approval; or

3. Development approvals are issued subject to a binding executed contract, UPD development agreement or other binding condition which provides that any facilities and strategies necessary to meet concurrency requirements after issuance of development approval will be in place within six (6) years of occupancy and use of the development.

B. The certification of concurrency shall be binding on the county at such time as the applicant provides assurances, acceptable to the county in form and amount, to guarantee the applicant's pro rata share of the cost of capital improvements needed for concurrency as determined by the Mitigation Payment System (K.C.C. 14.__).

C. The director may make adjustments to the committed network for TAM for corrections, updates, and modifications concerning costs; revenue sources; acceptance of facilities

pursuant to dedications which are consistent with the adopted comprehensive plan; or the date of construction (so long as it is completed within the six-year period) of any facility enumerated in the Capital Improvements Program.

D. The county shall identify projects in the adopted six (6) year CIP required for the committed network for the Transportation Adequacy Measure and any capital improvements for which a binding agreement has been executed with another party.

SECTION 32. There is added to K.C.C. Title 14 a new section to read as follows:

TCM - Intergovernmental Coordination. The county may enter into agreements and continue existing agreements with other local governments and the State of Washington to coordinate the imposition of TAM standards, impact fees and other mitigation for transportation concurrency. Existing agreements shall continue in force until modified or completed.

A. The county may apply transportation standards, fees and mitigations to development in the county that impacts other local governments and the State of Washington. Development approvals by the county may include conditions and mitigations that will be imposed on behalf of, and implemented by other local governments and the State of Washington.

B. The county may receive impact fees or other mitigations based on or as a result of development proposed in other jurisdictions that impacts the county. The county may agree to accept and implement conditions and mitigations that are imposed by other jurisdictions on development in their jurisdiction.

C. No fees or mitigations for transportation facilities of other agencies will be required by the county unless an agreement has been executed between the county and the affected agency. The agreement shall specify the fee schedule and level of service standards to be used by the county and the affected agency, which standards shall be consistent with the county's comprehensive plan and, if different than the standards adopted pursuant to this Title, shall be adopted by ordinance.

SECTION 33. There is added to K.C.C. Title 14 a new section to read as follows:

TCM - Relationship to SEPA. A determination of concurrency shall be an administrative action of King County that is categorically exempt from the State Environmental Policy Act.

SECTION 34. There is added to K.C.C. Title 14 a new chapter to read as follows:

"Mitigation Payment System"

SECTION 35. There is added to K.C.C. Title 14 a new section to read as follows:

MPS - Authority and purpose.

A. The department is authorized to impose transportation impact fees on new development pursuant to King County's powers as a home rule charter county; Article 11, § 11 of the Washington State Constitution; and the Growth Management Act, Laws of 1990, 1st Ex. Sess., chapter 17, RCW Chapter 82.02.

B. The purposes of this chapter are to:

1. Ensure that financial commitments are in place so that adequate transportation facilities are available to serve new growth and development;

2. Promote orderly growth and development by establishing standards requiring that new growth and development pay a proportionate share of the cost of new transportation facilities needed to serve new growth and development;

3. Ensure that transportation impact fees are imposed through established procedures and criteria so that specific developments do not pay arbitrary fees or duplicative fees for the same impact;

4. Implement the transportation policies of the transportation element of the King County comprehensive plan; and

5. Provide additional funding for growth-related transportation improvements identified by the King County comprehensive plan as reasonable and necessary to meet the future growth needs of King County.

SECTION 36. There is added to K.C.C. Title 14 a new section to read as follows:

. **Corridor.** Corridor: the road or set of roads within the county in which vehicle trips to or from a development will take place. Vehicles have flexibility as to an exact route within a corridor but little choice as to whether to use the corridor.

SECTION 37. There is added to K.C.C. Title 14 a new section to read as follows:

MPS Project. MPS Project: a growth-related road improvement, which is a system improvement, that is selected by the King County council for joint private and public funding pursuant to this chapter and that is located:

A. On a county road in unincorporated King County; or

B. On a city road in a city within King County when the city has an ordinance implementing the Growth Management Act of 1990, RCW Chapter 82.02, and when King County has an appropriate interlocal agreement with the city; or

C. On a state road in King County once the Washington State Department of Transportation (WSDOT) has adopted procedures that will enable it to plan for and fund growth-related improvements to state roads in a manner that satisfies the requirements of the Growth Management Act of 1990, RCW Chapter 82.02, and once King County has an appropriate interlocal agreement with WSDOT.

SECTION 38. There is added to K.C.C. Title 14 a new section to read as follows:

Project Cost. Project Cost: The estimated cost of constructing an MPS project, including the costs of design and right-of-way acquisition.

SECTION 39. There is added to K.C.C. Title 14 a new section to read as follows:

Development Improvements. Development Improvements: Site improvements and facilities that are planned and designed to provide service for a particular development and that are necessary for the use and convenience of the occupants or users of the development, and are not system improvements. No transportation improvement or facility that is considered a development improvement shall be included in the MPS project list.

SECTION 40. There is added to K.C.C. Title 14 a new section to read as follows:

Service District. Service District: geographic area defined by the county, or intergovernmental agreement, in which a defined set of transportation facilities provide service to development within the district. Service districts shall be designated on the basis of sound planning or engineering principles. Development in a service district may, and will likely be found to, impact roadways and intersections both inside and outside the service district, and the MPS fee will reflect a charge for all such impacts. The MPS service districts shall be the MPS zones.

SECTION 41. There is added to K.C.C. Title 14 a new section to read as follows:

Traffic Impacts. Traffic impacts: the diminishment of capacity of a roadway or intersection by the addition of new vehicle trips. Effects of new vehicle trips that are not quantifiable or to the extent that the effects cannot be mitigated fully by the addition of new capacity - such as safety hazards and inadequate signalization - are not traffic impacts for MPS purposes.

SECTION 42. There is added to K.C.C. Title 14 a new section to read as follows:

MPS - Scope and Use of impact fees. Impact fees:

A. Shall only be imposed for transportation improvements that are reasonably related to the traffic impacts of the new development;

B. Shall not exceed a proportionate share of the costs of transportation improvements that are reasonably related to the new development;

C. Shall be used for transportation improvements that will reasonably benefit the new development;

D. Shall not be used to correct existing deficiencies; and

E. Shall not be imposed to mitigate the same off-site traffic impacts that are being mitigated pursuant to any other law.

SECTION 43. There is added to K.C.C. Title 14 a new section to read as follows:

MPS - Fee schedules and establishment of service districts.

A. Fee schedules stating the amount of the MPS fee which residential development shall pay for development subject to MPS fees effective October 4, 1993, are set forth in Attachment B of this ordinance, which is incorporated herein by reference as if fully set forth. Subsequent fee schedules shall be established pursuant to section 44 of this ordinance. All other development shall pay an MPS fee individually calculated by the department, as set forth in subsection 44B. The MPS administrative fee which all developers shall pay is set forth in sections 47 and 48 of this ordinance.

B. For purposes of this chapter, the county is divided into service districts as set forth in Attachment A of this ordinance, which is incorporated herein by reference as if fully set forth. In each service district, similar types of residential development shall pay the same MPS fee, unless the amount of the fee is altered because:

1. Unusual circumstances exist and the department adjusts the amount of the fee as provided in subsection C below; or

2. The developer submits studies or data showing that the fee as set forth in the applicable schedule or as calculated by the department is in error, as provided in section 54 of this ordinance.

C. The department may adjust the standard impact fee as set forth in the fee schedules at the time the fee is imposed to consider unusual circumstances in specific cases to ensure that MPS fees are imposed fairly. The department shall set forth its reasons for adjusting the standard MPS fee in written findings.

SECTION 44. There is added to K.C.C. Title 14 a new section to read as follows:

MPS - Calculation of MPS fees.

A. The department shall calculate the MPS fees set forth in the fee schedules, subsection 43A of this ordinance, by means of a computerized modeling system that:

1. Incorporates the service districts adopted in subsection 43B of this ordinance;

2. Within each service district of the county, determines the standard fee for similar types of residential development, which shall be reasonably related to each development's proportionate share of the cost of the transportation improvement projects being funded by this chapter and shall reasonably reflect the average fee for similar development in the same service district; and

3. Reduces the proportionate share by applying the benefit factors set forth in this chapter.

B. When a development's fee is not determined by the fee schedules adopted in subsection 43A, the department shall calculate the MPS fee by means of a computerized modeling system, which is the same system used to determine the fee schedules, and which:

1. Determines the development's proportionate share of the cost of the transportation improvement projects being funded by this chapter; and

2. Reduces the proportionate share by applying the benefit factors set forth in this chapter.

C. The department's computer model shall calculate proportionate share for use in both the fee schedules and individual calculations by:

1. Determining the number of peak hour vehicle trips generated by development that will benefit from the vehicle capacity added, or to be added, by the road improvements on the MPS Project List;

2. Determining the unit cost of added capacity for each MPS project by dividing the estimated cost of each project by the amount of capacity added; and

3. Multiplying the number of peak hour trips added to each MPS project by the unit cost of added capacity for those projects.

D. In calculating proportionate share, the department's modeling system shall:

1. Recognize that a development's traffic will use a corridor rather than a particular roadway;

2. Use trip generation rates published by the Institute of Transportation Engineers (ITE) unless:

a. Actual measurements of the rate of trip generation by similar developments in King County are available, and the

director determines that these local measurements are more accurate; or

b. ITE trip generation rates for the proposed development are not available, in which case the director:

(1) May use published rates from another source; or

(2) May calculate the rate from data about the population of the proposed development; or

(3) May require the developer to obtain actual measurements of trip generation rates by similar developments in King County;

3. Reduce the trip generation rate to reflect reductions in traffic that will occur because of transportation strategies, as described in the Administrative Rules for this Title;

4. Identify all roadways and intersections that will be impacted by traffic from each development for as far from the development as the model can measure;

5. Identify when the capacity of an MPS project has been fully utilized;

6. Update the data in the model as often as practical, but at least annually;

7. Estimate the cost of constructing the projects on the MPS Project List as of the time they are placed on the list, and then update the cost estimates at least annually, considering the:

a. Availability of other means of funding transportation facility improvements;

b. Cost of existing transportation facility improvements; and

c. Methods by which transportation facility improvements were financed;

8. Update the fee collected against a project which has already been completed, through an advancement of county funds, at a rate, determined annually, which is equivalent to the county's return on its investments; and

9. Charge a development for the total traffic entering and exiting the development during the peak hour.

E. The department's modeling system shall reduce the calculated proportionate share by giving credit for the following benefit factors:

1. A fifteen (15) percent credit in recognition that some of the trips from a development paying an MPS fee may begin or end within a jurisdiction with which the county has executed a reciprocal MPS agreement, or within another development which is or has been subject to MPS requirements;

2. Past or future payments made or reasonably anticipated to be made by a development to pay for particular transportation improvements in the form of user fees, debt

service payments, taxes or other payments earmarked for or proratable to the same projects being funded by such development's MPS fee; and

3. The value of any dedication of land for, improvement to, or new construction of any system improvements provided by the developer, to transportation facilities that are identified in the MPS Project List and that are required by the county as a condition of approving the development activity; provided that when an MPS project is constructed on both on-site and off-site land, the department shall determine, in light of all the circumstances, what proportion of the developer's costs should fairly and reasonably be attributed to the work done on off-site land.

F. The department shall review the fifteen (15) percent factor annually and propose revisions to the factor when appropriate to reflect the actual number of trips generated by new development which also begin or end in other developments which have previously been subject to a fee for the same impact.

G. If the credit determined pursuant to subsection 44E.3 of this ordinance exceeds the amount of the developer's MPS fee, the department shall reimburse the developer from MPS fees collected from other developers for the same MPS project.

H. The amount of credit determined pursuant to subsection 44E.3 of this ordinance shall be credited proportionately among all the lots in the development, and the MPS fee for each lot for which a building permit is applied shall be reduced accordingly.

I. The department shall use the information from the computerized modeling system to prepare an annual draft fee schedule list. The council shall, as often as is necessary but at least annually, by ordinance establish the fee schedule applicable to each service area in the county by adopting, with or without modification, the department's draft fee schedules.

J. The department shall present to the council in administrative rules the proposed changes in the service district boundaries, set forth in subsection 43B of this ordinance, as often as is necessary to ensure that the service district boundaries conform to sound planning or engineering principles.

K. To the extent practical, and in accordance with sound planning or engineering principles, the department shall develop and propose to the council for adoption precalculated fee schedules applicable to types of development in addition to residential development.

SECTION 45. There is added to K.C.C. Title 14 a new section to read as follows:

MPS - Multifamily Residential fee schedule. MPS - Multifamily Residential fee schedule: Fees for multifamily residential dwelling units shall be sixty (60) percent of the fees charged to single family residential dwelling units.

SECTION 46. There is added to K.C.C. Title 14 a new section to read as follows:

MPS - Payment of fees.

A. All developers shall pay an MPS fee in accordance with the provisions of this chapter at the time that the applicable development permit is ready for issuance. The fee paid shall be the amount in effect as of the date of permit application.

B. All developers shall pay an MPS administrative fee at the time of application for a development permit as set forth in sections 47 and 48 of this ordinance.

C. An individually determined MPS fee shall be calculated at the time of application for a development permit, after transmittal to the department of the information provided by the developer to DDES. The department's determination of the development's traffic impacts shall be transmitted to DDES for use in its review pursuant to the State Environmental Policy Act.

D. The fee as initially calculated after application for a development permit shall be recalculated at the time of payment if the development is modified or conditioned in such a way as to alter the trip generation rate for the development or the development's total peak hour trips.

E. No development permit shall be issued until the MPS fee is paid, except that developers of residential subdivisions, short subdivisions, urban planned developments, or planned unit developments may defer payment until building permits are issued for the lots within the subdivision, short subdivision or planned unit development.

F. A developer may obtain a preliminary determination of the MPS fee before application for a development permit, by paying a processing fee pursuant to section 47 of this ordinance and providing the department with the information needed for processing.

G. MPS fees may be paid under protest in order to obtain a permit or other approval of development activity.

SECTION 47. There is added to K.C.C. Title 14 a new section to read as follows:

MPS - Administrative Fees.

A. All development permits subject to the MPS fees pursuant to section 46 of this ordinance shall pay an administrative fee of $60.

B. All development permits which require an individually determined MPS fee pursuant to subsection 46C of this ordinance shall pay an administrative processing fee of $320.

SECTION 48. There is added to K.C.C. Title 14 a new section to read as follows:

MPS - Administrative Fee for Preliminary MPS Fee Calculation. Requests to the department for a preliminary determination of an MPS fee prepared pursuant to subsection 46F of this ordinance shall be charged the administrative processing fee set forth in section 47 of this ordinance.

SECTION 49. There is added to K.C.C. Title 14 a new section to read as follows:

MPS - MPS project list.

A. In conjunction with the department's annual review and update of the Transportation Needs Report (TNR) element of the King County comprehensive plan the department shall do the following:

1. Identify each project in the TNR that is growth-related and the proportion of each such project that is growth-related;

2. Forecast the total monies available from taxes and other public sources for road improvements over the multi-year program;

3. Calculate the amount of MPS fees already paid; and

4. Identify those MPS projects that have been or are being built but whose performance capacity has not been fully utilized.

B. The department shall use this information to prepare an annual Draft MPS Project List, which shall comprise:

1. The projects on the TNR, in order of priority, that are growth-related and that are capable of being funded with the forecast public monies and the MPS fees already paid; and

2. The MPS projects already built or funded pursuant to this chapter whose performance capacity has not been fully utilized.

C. The council, at the same time that it adopts the annual budget and appropriates funds for capital improvement projects, shall by separate ordinance establish the annual MPS Project List by adopting, with or without modification, the department's draft list.

D. Once a project is placed on the MPS Project List, a fee shall be imposed on every development that impacts the project until the project is removed from the list by one of the following means:

1. The council by ordinance removes the project from the MPS Project List, in which case the fees already collected will be refunded if necessary to ensure that the MPS fee remains reasonably related to the traffic impacts of

development that have paid an MPS fee; provided, that a refund shall not be necessary if the council transfers the fees to the budget of another project that the council determines will mitigate essentially the same traffic impacts; or

2. The capacity created by the project has been fully utilized, in which case the department shall administratively remove the project from the MPS Project List.

SECTION 50. There is added to K.C.C. Title 14 a new section to read as follows:

MPS - Funding of MPS projects.

A. An MPS trust and agency fund is hereby created. This MPS fund shall be a first-tier fund as described in King County Code Chapter 4.10. The director of the department of public works shall be the fund manager. MPS fees shall be placed in appropriate deposit accounts within the MPS fund.

B. The MPS fees paid to the county shall be held and disbursed as follows:

1. The fees collected for each MPS project shall be placed in a deposit account within the MPS fund;

2. The roads and engineering division is authorized to transfer the project fees held in the MPS fund to the CIP fund no less than once a year in the year following receipt of the fees;

3. The non-MPS fee monies appropriated for the MPS project shall comprise both the public share of the project cost and an advancement of that portion of the private share that has not yet been collected in MPS fees;

4. The first money spent by the department on an MPS project after a council appropriation shall be deemed to be the fees from the MPS fund;

5. Fees collected after a project has been fully funded by means of one or more council appropriations shall constitute reimbursement to the county of the public monies advanced for the private share of the project. The public monies made available by such reimbursement shall be used to pay the public share of other MPS projects or to pay for smaller-scale, growth-related projects that are not placed on the MPS Project List; and

6. All interest earned on the MPS fees paid by developers shall be retained in the account and expended for the purpose or purposes for which the impact fees were imposed.

C. MPS fees for transportation facility improvements shall be expended only in conformance with the transportation element of the King County Comprehensive Plan.

D. MPS projects shall be funded by a balance between MPS fees and other sources of public funds, and shall not be funded solely by MPS fees.

E. MPS fees shall be expended or encumbered for a permissible use within six (6) years of receipt, unless there exists an extraordinary or compelling reason for fees to be held longer than six (6) years. The department may recommend to the council that the county hold fees beyond six years in cases where extraordinary or compelling reasons exist. Such reasons shall be identified in written findings by the council.

F. The department and the council may pool the MPS fees already collected from a development whenever appropriate to help finance a project with high priority among the projects impacted by the development.

G. The department shall pool MPS fees whenever necessary to ensure that the fees are expended or encumbered for a permissible use within six (6) years of receipt. Pooling for such purpose shall be accomplished as follows:

1. The department shall determine which project has the highest priority among the projects for which MPS fees were collected for each such development, and the department shall transfer the MPS fees paid by the development to the budget of the project with the highest priority.

2. The department shall indicate in the TNR which projects have funds in their budget that have been pooled to ensure that they are expended or encumbered in a timely manner.

H. The department shall prepare an annual report on each MPS fee account showing the source and amount of all moneys collected, earned or received and transportation improvements that were financed in whole or in part by MPS fees.

SECTION 51. There is added to K.C.C. Title 14 a new section to read as follows:

MPS - Refunds.

A. A developer may request and shall receive a refund when the developer does not proceed with the development activity for which MPS fees were paid, and the developer shows that no impact has resulted. However, the MPS administrative fee shall not be refunded.

B. If a property owner appears to be entitled to a refund of MPS fees, the department shall notify the property owner by first class mail deposited with the United States postal service at their last known address. The property owner must submit a request for a refund to the council in writing within one year of the date the right to claim the refund arises or the date the notice is given, whichever is later. Any impact fees that are not expended or encumbered

within the time limitations established by subsection 50E of this ordinance and for which no application for a refund has been made within this one-year period, shall be retained and expended on the projects for which it was collected.

C. In the event that MPS fees must be refunded for any reason, they shall be refunded with interest earned to the property owners as they appear of record with the King County assessor at the time of refund.

D. When the county seeks to terminate any or all impact fee requirements, all unexpended or unencumbered funds shall be refunded pursuant to this section. Upon the finding that any or all fee requirements are to be terminated, the county shall place notice of such termination and the availability of refunds in a newspaper of general circulation at least two (2) times and shall notify all potential claimants by first class mail to the last known address of claimants. Claimants shall request refunds as in subsection B of this section. All funds available for refund shall be retained for a period of one year. At the end of one year, any remaining funds shall be retained by the county, but must be expended for the indicated road facilities. This notice of requirement shall not apply if there are no unexpended or unencumbered balances within an account or accounts being terminated.

SECTION 52. There is added to K.C.C. Title 14 a new section to read as follows:

MPS - Exemptions for schools.

A. Public school districts shall be exempted from payment of mitigation payment system fees.

B. The amount of the MPS fees not collected from school districts shall be paid from public funds other than impact fee accounts.

SECTION 53. There is added to K.C.C. Title 14 a new section to read as follows:

MPS - Exemption or reduction for low and moderate income housing.

A. Public housing agencies or private non-profit housing developers participating in publicly sponsored or subsidized housing programs may apply to the Department of Human Services (DHS) for exemptions from MPS fee requirements. DHS shall review proposed developments of low income or moderate housing by such public or non-profit developers pursuant to criteria and procedures adopted by administrative rule. If DHS determines that a proposed development of low or moderate income housing satisfies the adopted criteria, DHS shall notify the department and such development shall be exempted from the requirement to pay an MPS fee.

B. Private developers who dedicate residential units for occupancy by low or moderate income households may apply to P,P, & R for reductions in MPS fees. DHS shall review such proposed developments pursuant to criteria and procedures adopted by administrative rule. If DHS determines that a proposed development satisfies the adopted criteria, DHS shall notify the department and the department shall reduce the calculated MPS fee for the development by an amount that is proportionate to the number of units in the development that satisfy the adopted criteria.

C. Developers of individual low or moderate income households who are building, contracting to build or siting a house may apply to DHS for an exemption from MPS fees. DHS shall review such proposed exemptions pursuant to criteria that include household income and assets, and the cost of the site, site improvements and the housing. The procedures used to evaluate an exception shall be adopted by administrative rule. If DHS determines that a household qualifies for exemption per the adopted criteria, DHS shall notify the department and such individual projects shall be exempted from the requirement to pay the MPS fee.

D. The amount of the MPS fees not collected from low or moderate income household development shall be paid from public funds other than impact fee accounts.

E. DHS is hereby instructed and authorized to adopt, pursuant to K.C.C. chapter 2.98, administrative rules to implement this section. Such rules shall provide for the administration of this program and shall:

1. Encourage the construction of housing for low or moderate income households by public housing agencies or private non-profit housing developers participating in publicly sponsored or subsidized housing programs;

2. Encourage the construction in private developments of housing units for low or moderate income households that are in addition to units required by another housing program or development condition;

3. Ensure that housing that qualifies as low or moderate cost meets appropriate standards regarding household income, rent levels or sale prices, location, number of units, and development size; and

4. Ensure that developers who obtain an exemption from or reduction of MPS fees pursuant to paragraphs A and B of this section will in fact build the proposed low and moderate cost housing and make it available to low income households for a minimum of fifteen (15) years.

SECTION 54. There is added to K.C.C. Title 14 a new section to read as follows:

MPS - Request for final decision needed to appeal. In order to obtain an appealable final decision the developer must:

A. Request in writing a review of the fee amount by department staff. The department staff shall consider any studies and data submitted by the developer seeking to adjust the amount of the fee; and

B. Request in writing reconsideration by the director or the director's designee of an adverse decision by staff. Such request for reconsideration shall state in detail the grounds for the request. The director or the director's designee shall issue a final, appealable decision after reviewing the request.

SECTION 55. There is added to K.C.C. Title 14 a new section to read as follows:

MPS - Necessity of compliance. A development permit issued after the effective date of the MPS provisions of this ordinance shall be null and void if issued without substantial compliance with this chapter by the department, DDES and the developer.

SECTION 56. There is added to K.C.C. Title 14 a new chapter to read as follows:

"Intersection Standards (IS)"

SECTION 57. There is added to K.C.C. Title 14 a new section to read as follows:

IS - Authority and Purpose.

A. This ordinance is enacted pursuant to the State Environmental Policy Act, K.C.C. 20.44, and R.C.W. 58.17 and the King County charter as a home rule county, Article 11, § 11 of the Washington State Constitution.

B. The purpose of this chapter is to:

1. Assure adequate levels of service, safety, and operating efficiency on the King County road system, at intersections serving and directly impacted by proposed new development;

2. Establish standards for intersection operation and define the relationship between new developments on road intersection function;

3. Identify development conditions to assure intersection capacity, safety and operational efficiency; and

4. Require that owners of new developments pay the proportionate costs of required intersection improvements.

SECTION 58. There is added to K.C.C. Title 14 a new section to read as follows:

Highway Capacity Manual. Highway Capacity Manual: Special Report 209 of the Transportation Research Board of the National Research Council, as currently amended.

SECTION 59. There is added to K.C.C. Title 14 a new section to read as follows:

Road Standards. Road Standards: the King County Road Standards, 1993, K.C.C. 14.42 (Ordinance 11187, 1993). Terms used in the Road Standards shall have the same meaning when used in this ordinance. References and authorities cited in the Road Standards shall also apply to this ordinance.

SECTION 60. There is added to K.C.C. Title 14 a new section to read as follows:

IS Significant Adverse Impacts. IS Significant Adverse Impacts: For the purposes of SEPA and this chapter, a significant adverse traffic impact is defined as any traffic condition directly caused by proposed development that would reasonably result in one or more of the following conditions at the time any part of the development is completed and able to generate traffic:

A. A roadway intersection that provides access to a proposed development, and that will function at a level of service worse than "E", and that will carry thirty (30) or more added vehicles in any one (1) hour period as a direct impact of the proposed development, and that will be impacted by at least twenty (20) per cent of the new traffic generated from the proposed development in that same one (1) hour period; or

B. A roadway intersection or approach lane where the director determines that a hazard to safety could reasonably result.

SECTION 61. There is added to K.C.C. Title 14 a new section to read as follows:

IS - Mitigation and Payment of Costs.

A. Based on the identification of Intersection Standards being exceeded using analytical techniques and information acceptable to the director, the owner of a proposed development shall be required to provide improvements which bring the intersection into compliance with IS, or that return it to its pre-project condition, as may be required by the director. Approval to construct the proposed development shall not be granted until the owner has agreed to build or pay fair and equitable costs to build the improvements required by the director within the time schedule set by the director.

B. At the discretion of the director, and based on technical information regarding traffic conditions and expected traffic impacts, the county may require that the owner of a proposed development pay the full costs of required IS improvements required under this title.

SECTION 62. There is added to K.C.C. Title 14 a new section to read as follows:

IS - Interjurisdictional Agreements.

A. Nothing in this section shall prevent the county from entering into agreements with the WSDOT or other local jurisdictions for the collection of fees and the mitigation of traffic on state highways or city arterials that may be caused by developments proposed in King County. The level of service standards used in such agreements shall be those of the county, the WSDOT, the local jurisdiction, or some combination of them, as provided in the agreement.

B. Nothing in this section shall prevent the continuation, modification, or fulfillment of existing county agreements with the WSDOT and local jurisdictions that were in force at the effective date of this ordinance.

SECTION 63. There is added to K.C.C. Title 14 a new section to read as follows:

IS - Relation to Other Permit Authority. IS - Relation to Other Permit Authority: The procedures set forth in this chapter do not limit the authority of King County to deny or to approve with conditions the following:

A. Any zone reclassification request, based on its expected traffic impacts;

B. Any proposed development or zone reclassification if King County determines that a hazard to safety would result from its direct traffic impacts without roadway or intersection improvements, regardless of level of service standards; or

C. Any proposed development reviewed under the authority of the Washington State Environmental Policy Act.

SECTION 64. There is added to K.C.C. Title 14 a new section to read as follows:

Administrative Rules and Procedures. Administrative Rules and Procedures: The director is hereby instructed and authorized to adopt such administrative rules and procedures as are necessary to implement the provisions of this ordinance.

SECTION 65. Amendments to this ordinance as passed by the council on December 19, 1994 are set forth in Attachment C to this ordinance and are incorporated by reference herein. Due to the number and length of the ordinances required by the Growth Management Act to be passed by the end of the year to amend county development regulations and the unavailability of a reliable electronic text version of the proposed ordinance as introduce, it may not be possible to prepare an ordinance that incorporates amendments within each section prior to the charter deadline for transmitting the adopted ordinance to the executive. The clerk is hereby authorized to transmit the ordinance with amendments set

forth in an attachment, or, if time allows, to incorporate the amendments within each section.

SECTION 66. There is added to K.C.C. Title 14 a new section to read as follows:

Severability. Severability: Should any section, subsection, paragraph, sentence, clause or phrase of this ordinance be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portion of this ordinance.

INTRODUCED AND READ for the first time this 28th day of November, 1994.

PASSED by a vote of 12 to 0 this 19th day of December, 1994.

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

Kent Pullen
Chair

ATTEST:

Gerald A. Peterson
Clerk of the Council

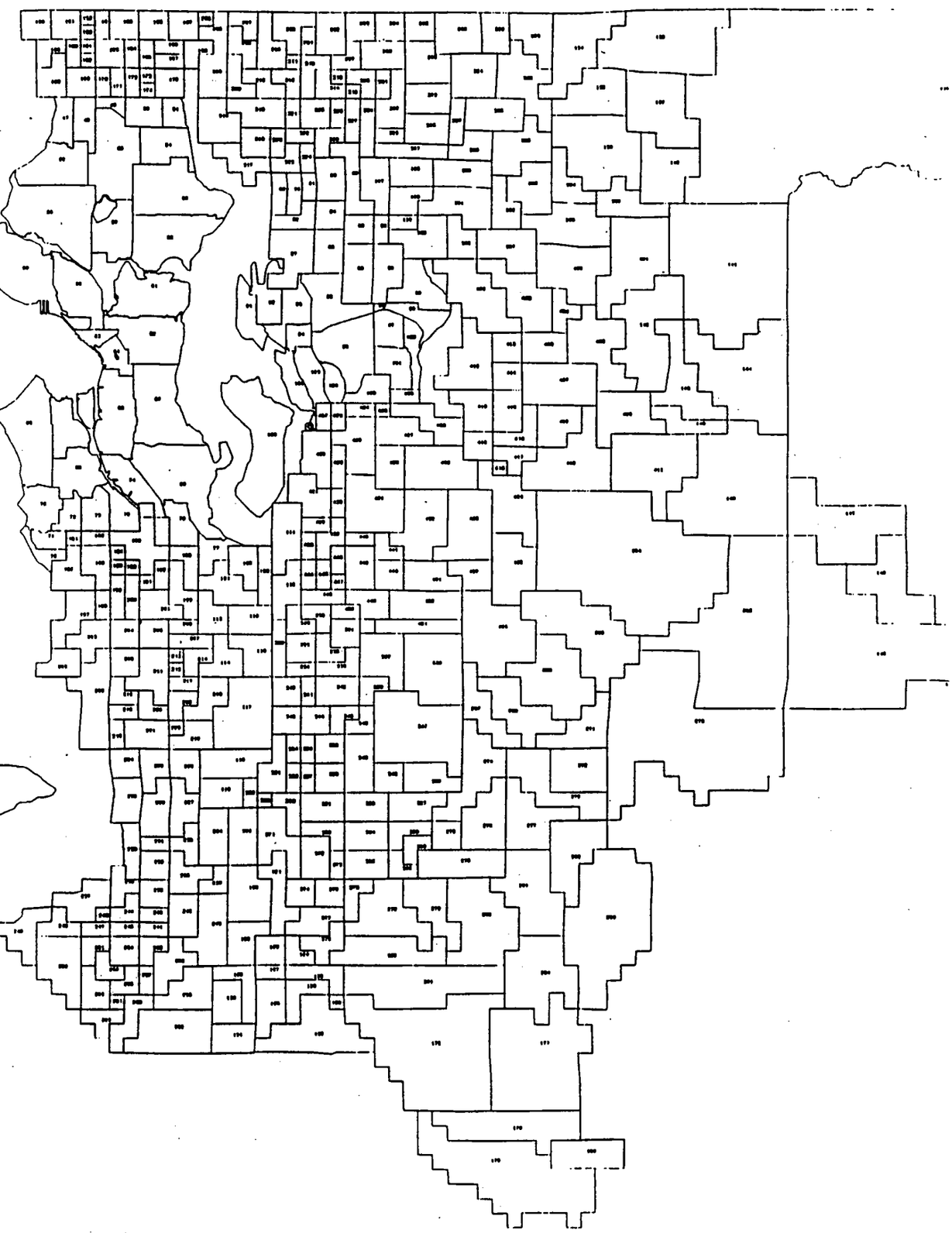
APPROVED this 30th day of December, 1994.

Gary Locke
King County Executive

Attachments:
A. King County Mitigation Payment and Concurrency Zone Map.
B. King County Residential MPS Fee Schedule.
C. Amendments passed by the Council December 19, 1994.

Attachment A

King County Mitigation Payment and Concurrency Zone Map



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Attachment B

King County Residential MPS Fee Schedule

ngle Family Residential Fee per Dwelling Unit (Multi Family Residential Fee Using Single Family Fee Multiplied by 0.6)

ee ($)	Zone	Fee ($)	Zone	Fee ($)	Zone	Fee ($)	Zone	Fee ($)	Zone	Fee ($)	Zone	Fee ($)
850	176	75	225	141	289	382	338	2742	387	6485	436	526
629	177	317	226	201	290	684	339	3502	388	4494	437	708
149	178	53	227	93	291	441	340	881	389	5317	438	200
130	179	58	228	177	292	427	341	830	390	2735	439	950
140	180	34	229	198	293	476	342	1869	391	899	440	3180
87	181	47	230	390	294	1586	343	591	392	2904	441	2635
59	182	40	231	101	295	3973	344	1978	393	2902	442	2288
2088	183	48	232	148	296	4396	345	3658	394	2180	443	2614
2275	184	100	233	193	297	594	346	4744	395	977	444	305
2234	185	64	234	317	298	2273	347	1722	396	743	445	412
2162	186	74	235	483	299	3900	348	3533	397	729	446	1380
2223	187	69	236	343	300	1402	349	2554	398	1434	447	1542
1766	188	64	238	65	301	1749	350	1600	399	2116	448	545
433	189	119	239	126	302	1753	351	291	400	1140	449	1766
334	190	67	240	92	303	4025	352	368	401	250	450	1409
529	191	68	241	88	304	2265	353	294	402	1192	451	1285
701	192	71	242	154	305	2156	354	546	403	961	452	2042
179	193	88	243	98	306	4419	355	712	404	4436	453	1286
164	194	103	255	77	307	3870	356	439	405	4035	454	2678
113	195	98	257	21	308	2055	357	632	406	1475	455	224
44	196	178	258	60	309	438	358	1521	407	2204	456	305
43	197	109	259	51	310	556	359	2112	408	2969	457	228
93	198	114	260	36	311	816	360	493	409	2506		
24	199	172	263	24	312	1650	361	1555	410	1440		
24	200	39	264	1306	313	651	362	1837	411	394		
26	201	56	265	253	314	1459	363	4258	412	1599		
28	202	145	266	1814	315	1350	364	3032	413	3112		
34	203	366	267	1509	316	1134	365	1561	414	2779	Any	
34	204	199	268	1695	317	1138	366	1440	415	1641	Unincorporated	
68	205	268	269	1567	318	987	367	4396	416	1277	residential fee	
131	206	89	270	1093	319	749	368	3371	417	1942	not listed above	
170	207	80	271	1178	320	1122	369	2819	418	2188	will be $130	
24	208	208	272	1146	321	579	370	624	419	1609		
24	209	233	273	1046	322	1324	371	614	420	633		
49	210	150	274	1479	323	686	372	1274	421	737		
56	211	192	275	1404	324	517	373	1607	422	175		
50	212	99	276	1512	325	836	374	2279	423	446		
297	213	94	277	1791	326	1667	375	2336	424	323		
96	214	104	278	1255	327	3166	376	2395	425	467		
172	215	865	279	1059	328	996	377	1236	426	274		
124	216	491	280	1012	329	1649	378	2654	427	509		
29	217	89	281	793	330	1209	379	975	428	1273		
35	218	189	282	417	331	2083	380	672	429	988		
31	219	188	283	456	332	476	381	1517	430	1245		
118	220	123	284	441	333	678	382	4081	431	794		
35	221	127	285	234	334	801	383	4029	432	2285		
76	222	103	286	249	335	1593	384	6375	433	847		
37	223	142	287	214	336	1447	385	4061	434	1035		
67	224	133	288	230	337	3523	386	8219	435	448		

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ATTACHMENT C

AMENDMENTS PASSED BY THE KING COUNTY COUNCIL

DECEMBER 19, 1994

NOTE:

The amendments have been incorporated into the ordinance.

ng MOVED the striking amendment. The motion PASSED 12-0, Ms. Hague excused.

11617

December 8, 1994 Sponsored by: Bruce Laing

AMENDMENT TO PROPOSED ORDINANCE 94-776 - Striking sections 1-91 and replacing with sections 1-65 as follows:

SECTION 1. There is added to K.C.C. Title 14 a new section to read as follows:

Title 14 (Roads and Bridges) of the King County Code is hereby amended in accordance with R.C.W. 36.70A to adopt development regulations to implement the King County comprehensive plan.

SECTION 2. There is added to K.C.C. Title 14 a new chapter to read as follows:

"Integrated Transportation Program (ITP)"

SECTION 3 There is added to K.C.C. Title 14 a new section to read as follows:

Components of the integrated transportation program. Components of the integrated transportation program: There are three (3) components of the Integrated Transportation Program. These components are as follows:

A. Transportation Concurrency Management (TCM), by which King County will regulate new development based on adequate transportation improvements needed to maintain level of service standards, in accordance with R.C.W. 36.70A.070(6) and the King County comprehensive plan.

B. Mitigation Payment System (MPS), by which King County will apply transportation impact fees to new development for collecting a fair and equitable share of transportation improvement costs that are needed in accordance with R.C.W. 82.02 and the King County comprehensive plan.

C. Intersection Standards (IS) by which King County will evaluate intersections affected by new development to assure safe and efficient operation and that improvements to mitigate the adverse impacts of such developments are completed, in accordance with the State Environmental Policy Act (SEPA), KCC 20.44.080, and the King County comprehensive plan.

SECTION 4. There is added to K.C.C. Title 14 a new section to read as follows:

Relationships among the three components of the ITP.

A. Permit Processes:

1. Certificate of Concurrency: Prior to submission of a development application, a request for a certificate of concurrency shall be initiated by a submittal to the department of development and environmental services (DDES) on a prescribed form containing information describing the location, uses, intensities, trip generation characteristics and pertinent information for the intended development. The certificate is a prerequisite for a complete development application. The DDES and the department of

public works (DPW), or their successor agencies, shall use the submitted information to determine the net trips to be generated, taking into account commute trip reduction strategies, internal travel for mixed-use development, and pass-by trips from existing traffic flows, and shall determine whether the development passes the concurrency test prescribed in the TCM chapter of this ordinance.

2. Development Application: Following the submission of a development application, the DPW shall determine the transportation impact fee to be paid under the MPS chapter of this title and shall determine the traffic impacts of the proposed development on roadway intersections that will be adversely impacted and which must be mitigated using the IS chapter of this ordinance.

B. Calculation of Trips Generated by a Development:

1. The vehicular trips expected to be generated by a proposed development shall be calculated as of the time of application for a certificate of concurrency, using standard generation rates published by the Institute of Transportation Engineers, other standard references, or from other documented information and surveys approved by the DPW.

2. The DPW may approve a reduction in generated vehicle trips calculated pursuant to the preceding subsection based on the types of land uses that are to be developed, on the expected amount of travel internal to the development, on the expected pass-by trips from existing traffic, or on the expected reduction of vehicle traffic volumes. Such reduction shall be used when calculating TAM, MPS and IS, including any impact and mitigation fees and costs for which the development shall be liable.

The calculation of vehicular trip reductions as described in this section shall be based in all cases upon sound and recognized technical information and analytical process that represent current engineering practice. In all cases, the DPW shall have final approval of all such data, information, and technical procedures used to calculate trip reductions.

C. Calculations:

1. TAM Calculations: King County shall determine the Transportation Adequacy Measure (TAM) for any zone according to policies T-303, T-304, and T-306 of the Comprehensive Plan. The TAM is a two part analysis, involving (1) the average weighted volume to capacity (v/c) ratio of arterials and highways serving the zone (TAM value) and (2) the existence of roadways critical to the zone's access not funded for improvement in the committed network (unfunded critical links). If an unfunded critical link exists, then the zone shall be deemed to fail the concurrency test until the critical link is improved.

Administrative rules issued under the authority of this ordinance shall contain a detailed technical description of the

calculation of TAM and the list of potential unfunded critical links to be monitored.

2. IS Calculations: Intersection level of service shall be calculated according to the most recent Highway Capacity Manual or an alternative method approved by the DPW.

D. Standards

1. The standard for the TAM value of a zone shall be those maximum average v/c zonal scores listed in Comprehensive Plan Policy T-305 for Transportation Service Areas, and displayed in section 27 of the TCM chapter of this title.

2. The unfunded critical link standard shall apply to the links identified by administrative rule, which have a volume to capacity ratio of 1.1 or more, and which would carry more than thirty (30) percent of the zone traffic from a residential development or more than thirty (30) percent of the traffic from a commercial development. The concept of unfunded critical links shall not apply to roads in Transportation Service Areas 1 and 2 if HOV lanes and transit service are available now or expected to be available within six (6) years in the unfunded critical link corridor. Unfunded critical links shall be applied only on those roadways in unincorporated King County unless they are identified in a city according to an interlocal agreement.

3. The intersection standard for all intersections shall be "E" as required by the IS chapter and calculated according to the most recent Highway Capacity Manual, or approved alternative method.

E. Application of Standards: The standards set forth above shall be used in the ITP as follows:

1. In the TCM chapter, zone evaluation of concurrency shall be calculated using the TAM value, the TAM standard for the zone, and unfunded critical links analysis.

2. In the identification of improvement needs for the Transportation Needs Report (TNR), the TAM and critical link standards will be used to determine needed improvements, together with safety, operational, multimodal, traffic congestion, and other criteria. These improvement needs shall be the source of projects included in the TNR, Capital Improvement Program (CIP), and MPS list.

3. For the determination of traffic impacts for the SEPA evaluation of a proposed development, the Intersection Standard will be used, as well as other criteria for bicycle/pedestrian, traffic congestion, safety, and road design.

F. Administrative Fees: Fees for ITP shall be imposed as follows:

1. An administrative fee of sixty dollars ($60.00) shall be charged to the applicant for the TAM determination of concurrency of a proposed development using analytical materials currently available to the DPW. In some cases, existing analytical materials may not be sufficient to make a determination of concurrency for the

proposed development and an individual concurrency test will be required. An administrative fee of three hundred and twenty dollars ($320.00) shall be charged to the applicant for the individual determination of concurrency of a proposed development. The method and time of collection of administrative fees for the concurrency test shall be stated in the administrative rules for this title.

2. All developments subject to the MPS fees shall pay an administrative fee as established by section 47 or 48 at the time of application for an MPS determination. Payment for impact mitigation fees under MPS shall be paid at the time a development permit is issued, provided that residential developments may defer payment until building permits are issued.

3. No administrative fees shall be charged for IS review, however, the owner of a proposed development is responsible for the costs of any traffic study needed to determine traffic impacts and mitigation measures at intersections, as determined by the director.

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G. Relationship to SEPA: The need for the environmental assessment of a proposed development must be determined by the department of development and environmental services, following the filing of a completed permit application. Impacts on the road system will be mitigated through MPS fees. Impacts on intersections will be mitigated through the provisions of the IS chapter of this ordinance.

Nothing in this ordinance shall cause a developer to pay mitigation and impact fees more than once for the same impact. Improvements and mitigation measures shall be coordinated by the director with other such improvements and measures attributable to other proposed developments, and with the county road improvement program so that the county road system is improved efficiently and effectively, with minimum costs to be incurred by public and private entities. The provisions of this Title do not supersede or replace the provisions of the County SEPA authority as enacted in K.C.C. 20.44.

SECTION 5. There is added to K.C.C. Title 14 a new section to read as follows:

Filing Appeals.

A. Appeals of the department's final decisions relative to this ordinance shall be filed with the director or the director's designee.

B. Such appeals shall be in written form, stating the grounds for the appeal, and shall be filed within ten (10) calendar days of the receipt of notification of the department's final appealable decision in the matter being appealed.

SECTION 6. There is added to K.C.C. Title 14 a new section to read as follows:

Grounds for Appeal.

A. For appeals of denial or conditional approval of a certificate of concurrency, the appellant must show that:

1. The department committed a technical error,

2. Alternative data or a traffic mitigation plan submitted to the department was inadequately considered,

3. The action of the department would substantially deprive the owner of all reasonable use of the property,

4. Conditions required by the department for concurrency are not related to the concurrency requirement, or

5. The action of the department was arbitrary and capricious.

B. For appeals of the MPS fee, the appellant must show that the department:

1. Committed an error in:

a. calculating the development's proportionate share, as determined by an individual fee calculation or, if relevant, as set forth in the fee schedule, or

b. granting credit for benefit factors; or

2. Based the final decision upon incorrect data; or

3. Gave inadequate consideration to alternative data or mitigations submitted to the department.

C. For appeals of IS improvements, the appellant must show that:

1. The department committed a technical error,

2. Alternative data or a traffic mitigation plan submitted to the department was inadequately considered, or

3. Conditions required by the department are not related to improvements needed to serve the proposed development.

SECTION 7. There is added to K.C.C. Title 14 a new chapter to read as follows:

"Transportation Concurrency Management (TCM)"

SECTION 8. There is added to K.C.C. Title 14 a new section to read as follows:

TCM - Authority and Purpose.

A. This chapter is enacted pursuant to King County's powers as a home rule charter county; Article 11, § 11 of the Washington State Constitution; and the Growth Management Act, RCW 36.70A.070.

B. It is the purpose of this chapter to:

1. Provide adequate levels of service on transportation facilities for existing use as well as new development in unincorporated King County;

2. Provide adequate transportation facilities that achieve and maintain county standards for levels of service as provided in the Comprehensive Plan, as amended; and

3. Ensure that county level of service standards are achieved "concurrently" with development (as required by the Growth Management Act) by denying approval of development that would cause the level of service on transportation facilities to decline below county standards. Applicants for development may propose mitigation measures that will achieve and maintain the county's standard for level of service.

SECTION 9. There is added to K.C.C. Title 14 a new section to read as follows:

Capital Improvement Program. Capital Improvement Program (CIP): the expenditures programmed by King County for capital purposes over the next six (6) year period in the CIP most recently adopted by the county council.

SECTION 10. There is added to K.C.C. Title 14 a new section to read as follows:

Certificate of Concurrency. Certificate of concurrency: the document issued by the county indicating:

A. The location or other description of the property on which the development is proposed,

B. The number of development units and specific uses, densities, and intensities that were tested for concurrency and approved,

C. The type of development approval for which the certificate of concurrency is issued,

D. An effective date, and

E. An expiration date.

SECTION 11. There is added to K.C.C. Title 14 a new section to read as follows:

Committed Network for the Transportation Adequacy Measure. Committed Network for the Transportation Adequacy Measure: the system of transportation facilities used to calculate the Transportation Adequacy Measure to determine the level of service of transportation for a zone. The network includes transportation facilities that are needed to provide the level of service standard, including existing facilities and proposed facilities which are fully funded for construction in the most currently adopted six (6) year roads CIP or for which voluntary financial commitments have been secured. Projects to be provided by the state, cities or other jurisdictions may become part of the committed network.

SECTION 12. There is added to K.C.C. Title 14 a new section to read as follows:

Concurrency. Concurrency: means transportation improvements or strategies are in place at the time of development or that a financial commitment is in place to complete the improvements or strategies within six (6) years, according to R.C.W. 36.70A.070(6).

SECTION 13. There is added to K.C.C. Title 14 a new section to read as follows:

Concurrency Test. Concurrency Test: the determination of an applicant's impact on transportation facilities by the comparison of the level of service of the concurrency zone which includes the proposed development to the level of service standard for that zone. A concurrency test must be passed in order to obtain a certificate of concurrency.

SECTION 14. There is added to K.C.C. Title 14 a new section to read as follows:

Concurrency Zone. Concurrency Zone: the zones depicted in the King County Mitigation Payment and Concurrency Zone Map which is

adopted as Attachment A of this ordinance and is on file with the clerk of the council. The director of DPW may change the boundaries of such zones by including such changes in the administrative rules for this Title, filing such changes with the clerk of the council, and giving public notice of such changes.

SECTION 15. There is added to K.C.C. Title 14 a new section to read as follows:

Department. Department: the department of public works or its successor agency.

SECTION 16. There is added to K.C.C. Title 14 a new section to read as follows:

Development. Development: specified improvements or changes in use designed or intended to permit a use of land which will contain more dwelling units or buildings than the existing use of the land, or to otherwise change the use of the land or buildings/improvements on the land in a manner that increases the amount of vehicle traffic generated by the existing use of the land, and that requires a development permit from King County. This definition shall not pertain to the rezoning of land or a UPD permit.

SECTION 17. There is added to K.C.C. Title 14 a new section to read as follows:

Development Approval. Development Approval: any order, permit or other official action of the county granting, or granting with conditions an application for development, but not pertaining to the rezoning of land or a UPD permit.

SECTION 18. There is added to K.C.C. Title 14 a new section to read as follows:

Development Units. Development Units: The proposed quantity of development measured by dwelling units for residential development and square feet for non-residential development, upon which are based the calculations of TAM for the determination of concurrency.

SECTION 19. There is added to K.C.C. Title 14 a new section to read as follows:

Financial Commitment. Financial Commitment consists of the following:

A. Revenue designated in the most currently adopted CIP for transportation facilities or strategies needed in the committed network for the Transportation Adequacy Measure to test for concurrency. The financial plan underlying the adopted CIP identifies all applicable and available revenue sources and forecasts these revenues through the six (6) year period with reasonable assurance that such funds will be timely put to such ends. Projects to be used in defining the committed network shall represent those projects which are fully funded for construction in the six (6) years of the CIP. This commitment is annually reviewed through the annual budget process;

B. Unanticipated revenue from federal or state grants for which the county has received notice of approval; or

C. Revenue that is assured by an applicant in a form approved by the county in a voluntary agreement.

SECTION 20. There is added to K.C.C. Title 14 a new section to read as follows:

Peak period. Peak period: the one-hour weekday period during which the greatest volume of traffic uses the road system identified separately for each roadway section.

SECTION 21. There is added to K.C.C. Title 14 a new section to read as follows:

Reservation and reserve. Reservation and reserve: development units are set aside in the county's concurrency records in a manner that assigns the units to the applicant and prevents the same units being assigned to any other applicant.

SECTION 22. There is added to K.C.C. Title 14 a new section to read as follows:

Transportation facilities. Transportation Facilities: principal, minor and collector arterial roads, streets, state highways, freeways, intersections, transit and high occupancy vehicle facilities, and non-motorized facilities (i.e., for bicycles or pedestrians). Transportation facilities include any such facility owned, operated or administered by the State of Washington and its political subdivisions, including the county and cities.

SECTION 23. There is added to K.C.C. Title 14 a new section to read as follows:

Transportation Strategies. Transportation Strategies: transportation demand management strategies and other techniques or programs that reduce single-occupant vehicle commute travel.

SECTION 24. There is added to K.C.C. Title 14 a new section to read as follows:

TCM - Requirement for Certificate of Concurrency.

Each applicant for a development approval, except as provided in subsection 26A of this ordinance, shall present a certificate of concurrency.

SECTION 25. There is added to K.C.C. Title 14 a new section to read as follows:

TCM - Concurrency Test.

A. Applications for certificates of concurrency, and the resulting concurrency test, shall be completed prior to application for development approval. For a UPD permit, applications for certificates of concurrency, and the resulting concurrency test, shall be completed prior to issuance of a UPD permit.

B. Applications for certificates of concurrency shall be submitted to the department of development and environmental services on forms provided by the department.

C. The county shall perform a concurrency test for each application for a certificate of concurrency.

D. The county shall conduct the concurrency test first for the earliest completed application received. Subsequent applicants will

be tested in the same order as the county receives completed applications.

E. The county shall not issue a certificate of concurrency unless there are adequate transportation facilities to meet the level of service standards for existing and approved uses and the impacts of the proposed development.

F. In conducting the concurrency test, the county shall use standard trip generation rates, such as those reported by the Institute of Transportation Engineers. An applicant may submit with the application for certification of concurrency a calculation of alternative trip generation rates for the proposed development. The director shall review the alternate calculations and make a written determination within ten (10) business days of submittal as to whether such calculation will be used in lieu of the standard trip generation rates. The director shall adjust the trip generation forecast of proposed development to account for allowances determined pursuant to the Mitigation Payment System's procedures for transportation strategies, including transportation demand management reductions.

G. If the level of service is equal to or better than the adopted standards, the concurrency test is passed, and the applicant shall receive a certificate of concurrency.

H. If the level of service is worse than the adopted standards, the concurrency test is not passed, and the applicant shall select one of the following options:

1. Accept a ninety (90)-day reservation of transportation facilities that are available, and within the same ninety (90)-day period amend the application to reduce the need for transportation facilities to the units that are available, or voluntarily arrange for the transportation facilities needed to achieve concurrency. Reduction of need can be through reduction of the size of the development (so long as minimum density requirements continue to be met), reduction of trips generated by the original proposed development, phasing of the development to match future transportation facility construction; or

2. Accept the denial of an application for a certificate of concurrency; or

3. Appeal the denial of the application for a certificate of concurrency, pursuant to the provisions of sections 5 and 6 of this ordinance. The county shall reserve any available development units during the appeal.

I. The concurrency test shall be performed only for the specific property, uses, densities and intensities based on information provided by the applicant and included in the certificate of concurrency. Changes to the uses, densities, and intensities that create additional impacts on transportation facilities shall be subject to an additional concurrency test.

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SECTION 26. There is added to K.C.C. Title 14 a new section to read as follows:

TCM - Exemptions from Concurrency.

A. The following applications for development approval are exempt from the concurrency test, and may commence development without a certificate of concurrency:

1. Development that is vested prior to the effective date of this ordinance is exempt for the development approval for which vested status was achieved;

2. Any development that is categorically exempt from environmental review according to KCC 20.44.040, except short plats;

3. Renewals of previously issued, unexpired permits; and

4. Expansions or phases of projects that were disclosed by the applicant and subject to a concurrency test as part of the original application (i.e., phased development), provided that a certificate of concurrency was issued for the expansion or subsequent phase.

B. In order to monitor the cumulative effect of exempt development approvals on the level of service of transportation facilities, the county shall add the impacts of exempt development approvals to the Transportation Adequacy Measure and all other relevant concurrency monitoring records. Development units shall be allocated to vested developments based on the amount such vested developments are likely to need on an annual basis. The allocation shall be based on each vested development's historical building patterns over recent years. If no such historical record or pattern can be determined for a vested development, then the allocation to each year of the first six (6) years shall be one-sixth of the construction activity remaining to be built in the development. All allocations of facility capacity to vested development shall be subtracted from the remaining capacity available for development that is not vested.

SECTION 27. There is added to K.C.C. Title 14 a new section to read as follows:

TCM - TAM Standards.

A. The following are the TAM standards for each Transportation Service Area, as adopted in the King County Comprehensive Plan Policy T-305, provided there are no unfunded critical links affecting the concurrency zone:

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Transportation Service Area	Maximum Averaged V/C Zonal Score	Average TAM Standard
Transportation Service Area 1 with adequate HOV and transit service	> 1.0	F
Transportation Service Area 1 without adequate HOV and transit service	0.99	E
Transportation Service Area 2	0.99	E
Transportation Service Area 3	0.89	D
Transportation Service Area 4	0.79	C
Transportation Service Area 5	0.69	B

For the purpose of this section, "adequate HOV and transit service" means that those services planned for Transportation Service Area 1 are in operation. The standard in each concurrency zone or part thereof shall be the same as for the Transportation Service Area in which the zone or part is located. In the event that a concurrency zone is affected by one or more unfunded critical links, the concurrency zone shall be considered to fail the standard for the zone.

B. A certificate of concurrency shall not be issued in any part of a concurrency zone if the standards in this section are not achieved and maintained for the zone as a whole, or the portion of the zone in the Transportation Service Area in which the development is proposed.

SECTION 28. There is added to K.C.C. Title 14 a new section to read as follows:

Update of TAM. Update of TAM: Levels of service shall be monitored and the traffic model for the Transportation Adequacy Measure shall be updated at least once per year. The monitoring and update process shall include traffic volumes, approval of additional development, completion of previously approved development, improvements to transportation facilities, and the effect of transportation strategies.

SECTION 29. There is added to K.C.C. Title 14 a new section to read as follows:

TCM - Certificate of Concurrency.

A. A certificate of concurrency shall be issued by the director or the director's designee. Issuance of a certificate creates a rebuttable presumption that the proposed development satisfies the concurrency requirements of this chapter. The determination of concurrency shall be final at the time of development approval. The issue of concurrency may be raised as part of the review process for the development application for which the certificate of concurrency was issued.

B. Upon issuance of a certificate of concurrency, the county shall reserve development units on behalf of the applicant, and indicate the reservation on the certificate of concurrency.

C. A certificate of concurrency shall expire if the development for which concurrency is reserved is not applied for within ninety (90) days of issuance of the certificate of concurrency. A certificate of concurrency shall be required in application for a formal subdivision plat under KCC 19.36.045 and for a short plat under KCC 19.26.020.

D. A certificate of concurrency shall be valid for the application period and subsequently for the same period of time as the development approval which is issued pursuant to the certificate of concurrency. If the development approval does not have an expiration date, the certificate of concurrency shall be valid for five (5) years from the date of issuance.

E. A certificate of concurrency may be extended according to the same terms and conditions as the underlying development approval. If a development approval is granted an extension, the certificate of concurrency, if any, shall also be extended, except that certificate of concurrency shall not be extended more than two (2) times without reason deemed sufficient by the director of DPW.

F. A certificate of concurrency can be extended to remain in effect for the life of each subsequent development approval for the same parcel, as long as the applicant obtains the subsequent development approval prior to the expiration of the earlier development approval. No development shall be required to hold more than one (1) valid certificate of concurrency, unless the applicant or subsequent owner proposes changes or modifications to the property location, density, intensity, or land use that creates additional impacts on transportation facilities.

G. A certificate of concurrency runs with the land and is valid only for subsequent development approvals for the same parcel, and to new owners of the original parcel for which it was issued. A certificate of concurrency cannot be transferred to a different parcel and shall be limited to uses and intensities for which it was originally issued.

H. Upon subdivision of a parcel that has obtained a certificate of concurrency, the county shall replace the certificate of concurrency by issuing a separate certificate of concurrency to each subdivided parcel, assigning to each a pro rata portion of the development units of the original certificate. The director may modify such assignment upon petition of the owner.

I. A certificate of concurrency shall expire if the underlying development approval expires or is revoked or denied by the county.

J. All development approvals that voluntarily provide funding for one (1) or more transportation facilities by the development or entities other than the county shall be conditioned to require that prior to the issuance of any final development approval the

availability of such transportation facilities or financial arrangements has been confirmed.

K. Upon annexation of any development, the provisions for the certificate of concurrency shall be enforced by the interlocal agreement.

SECTION 30. There is added to K.C.C. Title 14 a new section to read as follows:

TCM - Fees.

A. The county shall charge an administrative fee for conducting the concurrency test in accordance with section 4F of this ordinance. The concurrency test fee shall not be refundable.

B. The following types of development are exempt from the concurrency test fee:

1. All applications that are exempt from the concurrency test pursuant to section 26 of this ordinance, and

2. Development by municipal, county, state, and federal governments, and special districts (as that term is defined by state law).

SECTION 31. There is added to K.C.C. Title 14 a new section to read as follows:

TCM - Provide Needed Transportation Facilities.

A. The county shall determine that transportation facilities are available to support development at adopted TAM standards within six (6) years of the impacts of such development. The county shall require at the time the certificate of concurrency is issued that:

1. The necessary facilities and services are in place at the time a development approval is issued; or

2. The necessary facilities will be complete within six (6) years of development approval:

a. The necessary facilities are under construction at the time a development approval is issued, and financial commitment is in place to complete the necessary facilities within six (6) years of issuance of development approval; or

b. The necessary facilities are the subject of a binding executed contract or development agreement which provides for the actual construction or financial commitment of the required facilities, guarantees that the necessary facilities will be in place within six (6) years of issuance of development approval, and provides that the capital project is included in, or will be added to, the committed network for the Transportation Adequacy Measure, the Transportation Needs Report, and the six (6)-year Capital Improvements Program; or

c. The county has in place financial commitments to complete the necessary public facilities or strategies within six (6) years of issuance of development approval; or

3. Development approvals are issued subject to a binding executed contract, UPD development agreement or other binding condition which provides that any facilities and strategies necessary to meet concurrency requirements after issuance of development approval will be in place within six (6) years of occupancy and use of the development.

B. The certification of concurrency shall be binding on the county at such time as the applicant provides assurances, acceptable to the county in form and amount, to guarantee the applicant's pro rata share of the cost of capital improvements needed for concurrency as determined by the Mitigation Payment System (KCC 14.__).

C. The director may make adjustments to the committed network for TAM for corrections, updates, and modifications concerning costs; revenue sources; acceptance of facilities pursuant to dedications which are consistent with the adopted comprehensive plan; or the date of construction (so long as it is completed within the six-year period) of any facility enumerated in the Capital Improvements Program.

D. The county shall identify projects in the adopted six (6) year CIP required for the committed network for the Transportation Adequacy Measure and any capital improvements for which a binding agreement has been executed with another party.

SECTION 32. There is added to K.C.C. Title 14 a new section to read as follows:

TCM - Intergovernmental Coordination. The county may enter into agreements and continue existing agreements with other local governments and the State of Washington to coordinate the imposition of TAM standards, impact fees and other mitigation for transportation concurrency. Existing agreements shall continue in force until modified or completed.

A. The county may apply transportation standards, fees and mitigations to development in the county that impacts other local governments and the State of Washington. Development approvals by the county may include conditions and mitigations that will be imposed on behalf of, and implemented by other local governments and the State of Washington.

B. The county may receive impact fees or other mitigations based on or as a result of development proposed in other jurisdictions that impacts the county. The county may agree to accept and implement conditions and mitigations that are imposed by other jurisdictions on development in their jurisdiction.

C. No fees or mitigations for transportation facilities of other agencies will be required by the county unless an agreement has been executed between the county and the affected agency. The agreement shall specify the fee schedule and level of service standards to be used by the county and the affected agency, which

standards shall be consistent with the county's comprehensive plan and, if different than the standards adopted pursuant to this Title, shall be adopted by ordinance.

SECTION 33. There is added to K.C.C. Title 14 a new section to read as follows:

TCM - Relationship to SEPA. A determination of concurrency shall be an administrative action of King County that is categorically exempt from the State Environmental Policy Act.

SECTION 34. There is added to K.C.C. Title 14 a new chapter to read as follows:

"Mitigation Payment System"

SECTION 35. There is added to K.C.C. Title 14 a new section to read as follows:

MPS - Authority and purpose.

A. The department is authorized to impose transportation impact fees on new development pursuant to King County's powers as a home rule charter county; Article 11, § 11 of the Washington State Constitution; and the Growth Management Act, Laws of 1990, 1st Ex. Sess., chapter 17, RCW Chapter 82.02.

B. The purposes of this chapter are to:

1. Ensure that financial commitments are in place so that adequate transportation facilities are available to serve new growth and development;

2. Promote orderly growth and development by establishing standards requiring that new growth and development pay a proportionate share of the cost of new transportation facilities needed to serve new growth and development;

3. Ensure that transportation impact fees are imposed through established procedures and criteria so that specific developments do not pay arbitrary fees or duplicative fees for the same impact;

4. Implement the transportation policies of the transportation element of the King County comprehensive plan; and

5. Provide additional funding for growth-related transportation improvements identified by the King County comprehensive plan as reasonable and necessary to meet the future growth needs of King County.

SECTION 36. There is added to K.C.C. Title 14 a new section to read as follows:

Corridor. Corridor: the road or set of roads within the county in which vehicle trips to or from a development will take place. Vehicles have flexibility as to an exact route within a corridor but little choice as to whether to use the corridor.

SECTION 37. There is added to K.C.C. Title 14 a new section to read as follows:

MPS Project. MPS Project: a growth-related road improvement, which is a system improvement, that is selected by the King County council for joint private and public funding pursuant to this chapter and that is located:

A. On a county road in unincorporated King County; or

B. On a city road in a city within King County when the city has an ordinance implementing the Growth Management Act of 1990, RCW Chapter 82.02, and when King County has an appropriate interlocal agreement with the city; or

C. On a state road in King County once the Washington State Department of Transportation (WSDOT) has adopted procedures that will enable it to plan for and fund growth-related improvements to state roads in a manner that satisfies the requirements of the Growth Management Act of 1990, RCW Chapter 82.02, and once King County has an appropriate interlocal agreement with WSDOT.

SECTION 38. There is added to K.C.C. Title 14 a new section to read as follows:

Project Cost. Project Cost: The estimated cost of constructing an MPS project, including the costs of design and right-of-way acquisition.

SECTION 39. There is added to K.C.C. Title 14 a new section to read as follows:

Development Improvements. Development Improvements: Site improvements and facilities that are planned and designed to provide service for a particular development and that are necessary for the use and convenience of the occupants or users of the development, and are not system improvements. No transportation improvement or facility that is considered a development improvement shall be included in the MPS project list.

SECTION 40. There is added to K.C.C. Title 14 a new section to read as follows:

Service District. Service District: geographic area defined by the county, or intergovernmental agreement, in which a defined set of transportation facilities provide service to development within the district. Service districts shall be designated on the basis of sound planning or engineering principles. Development in a service district may, and will likely be found to, impact roadways and intersections both inside and outside the service district, and the MPS fee will reflect a charge for all such impacts. The MPS service districts shall be the MPS zones.

SECTION 41. There is added to K.C.C. Title 14 a new section to read as follows:

Traffic Impacts. Traffic impacts: the diminishment of capacity of a roadway or intersection by the addition of new vehicle trips. Effects of new vehicle trips that are not quantifiable or to the extent that the effects cannot be mitigated fully by the addition of new capacity - such as safety hazards and inadequate signalization - are not traffic impacts for MPS purposes.

SECTION 42. There is added to K.C.C. Title 14 a new section to read as follows:

MPS - Scope and Use of impact fees. Impact fees:

A. Shall only be imposed for transportation improvements that are reasonably related to the traffic impacts of the new development;

B. Shall not exceed a proportionate share of the costs of transportation improvements that are reasonably related to the new development;

C. Shall be used for transportation improvements that will reasonably benefit the new development;

D. Shall not be used to correct existing deficiencies; and

E. Shall not be imposed to mitigate the same off-site traffic impacts that are being mitigated pursuant to any other law.

SECTION 43. There is added to K.C.C. Title 14 a new section to read as follows:

MPS - Fee schedules and establishment of service districts.

A. Fee schedules stating the amount of the MPS fee which residential development shall pay for development subject to MPS fees effective October 4, 1993, are set forth in Attachment B of this ordinance, which is incorporated herein by reference as if fully set forth. Subsequent fee schedules shall be established pursuant to section 44 of this ordinance. All other development shall pay an MPS fee individually calculated by the department, as set forth in subsection 44B. The MPS administrative fee which all developers shall pay is set forth in sections 47 and 48 of this ordinance.

B. For purposes of this chapter, the county is divided into service districts as set forth in Attachment A of this ordinance, which is incorporated herein by reference as if fully set forth. In each service district, similar types of residential development shall pay the same MPS fee, unless the amount of the fee is altered because:

1. Unusual circumstances exist and the department adjusts the amount of the fee as provided in subsection C below; or

2. The developer submits studies or data showing that the fee as set forth in the applicable schedule or as calculated by the department is in error, as provided in section 54 of this ordinance.

C. The department may adjust the standard impact fee as set forth in the fee schedules at the time the fee is imposed to consider unusual circumstances in specific cases to ensure that MPS fees are imposed fairly. The department shall set forth its reasons for adjusting the standard MPS fee in written findings.

SECTION 44. There is added to K.C.C. Title 14 a new section to read as follows:

MPS - Calculation of MPS fees.

A. The department shall calculate the MPS fees set forth in the fee schedules, subsection 43A of this ordinance, by means of a computerized modeling system that:

1. Incorporates the service districts adopted in subsection 43B of this ordinance;

2. Within each service district of the county, determines the standard fee for similar types of residential development, which shall be reasonably related to each development's proportionate share of the

cost of the transportation improvement projects being funded by this chapter and shall reasonably reflect the average fee for similar development in the same service district; and

3. Reduces the proportionate share by applying the benefit factors set forth in this chapter.

B. When a development's fee is not determined by the fee schedules adopted in subsection 43A, the department shall calculate the MPS fee by means of a computerized modeling system, which is the same system used to determine the fee schedules, and which:

1. Determines the development's proportionate share of the cost of the transportation improvement projects being funded by this chapter; and

2. Reduces the proportionate share by applying the benefit factors set forth in this chapter.

C. The department's computer model shall calculate proportionate share for use in both the fee schedules and individual calculations by:

1. Determining the number of peak hour vehicle trips generated by development that will benefit from the vehicle capacity added, or to be added, by the road improvements on the MPS Project List;

2. Determining the unit cost of added capacity for each MPS project by dividing the estimated cost of each project by the amount of capacity added; and

3. Multiplying the number of peak hour trips added to each MPS project by the unit cost of added capacity for those projects.

D. In calculating proportionate share, the department's modeling system shall:

1. Recognize that a development's traffic will use a corridor rather than a particular roadway;

2. Use trip generation rates published by the Institute of Transportation Engineers (ITE) unless:

a. Actual measurements of the rate of trip generation by similar developments in King County are available, and the director determines that these local measurements are more accurate; or

b. ITE trip generation rates for the proposed development are not available, in which case the director:

(1) May use published rates from another source; or

(2) May calculate the rate from data about the population of the proposed development; or

(3) May require the developer to obtain actual measurements of trip generation rates by similar developments in King County;

3. Reduce the trip generation rate to reflect reductions in traffic that will occur because of transportation strategies, as described in the Administrative Rules for this Title;

4. Identify all roadways and intersections that will be impacted by traffic from each development for as far from the development as the model can measure;

5. Identify when the capacity of an MPS project has been fully utilized;

6. Update the data in the model as often as practical, but at least annually;

7. Estimate the cost of constructing the projects on the MPS Project List as of the time they are placed on the list, and then update the cost estimates at least annually, considering the:

a. Availability of other means of funding transportation facility improvements;

b. Cost of existing transportation facility improvements; and

c. Methods by which transportation facility improvements were financed;

8. Update the fee collected against a project which has already been completed, through an advancement of county funds, at a rate, determined annually, which is equivalent to the county's return on its investments; and

9. Charge a development for the total traffic entering and exiting the development during the peak hour.

E. The department's modeling system shall reduce the calculated proportionate share by giving credit for the following benefit factors:

1. A fifteen (15) percent credit in recognition that some of the trips from a development paying an MPS fee may begin or end within a jurisdiction with which the county has executed a reciprocal MPS agreement, or within another development which is or has been subject to MPS requirements;

2. Past or future payments made or reasonably anticipated to be made by a development to pay for particular transportation improvements in the form of user fees, debt service payments, taxes or other payments earmarked for or proratable to the same projects being funded by such development's MPS fee; and

3. The value of any dedication of land for, improvement to, or new construction of any system improvements provided by the developer, to transportation facilities that are identified in the MPS Project List and that are required by the county as a condition of approving the development activity; provided that when an MPS project is constructed on both on-site and off-site land, the department shall determine, in light of all the circumstances, what proportion of the developer's costs should fairly and reasonably be attributed to the work done on off-site land.

F. The department shall review the fifteen (15) percent factor annually and propose revisions to the factor when appropriate to reflect the actual number of trips generated by new development which also begin or end in other developments which have previously been subject to a fee for the same impact.

G. If the credit determined pursuant to subsection 44E.3 of this ordinance exceeds the amount of the developer's MPS fee, the

department shall reimburse the developer from MPS fees collected from other developers for the same MPS project.

H. The amount of credit determined pursuant to subsection 44E.3 of this ordinance shall be credited proportionately among all the lots in the development, and the MPS fee for each lot for which a building permit is applied shall be reduced accordingly.

I. The department shall use the information from the computerized modeling system to prepare an annual draft fee schedule list. The council shall, as often as is necessary but at least annually, by ordinance establish the fee schedule applicable to each service area in the county by adopting, with or without modification, the department's draft fee schedules.

J. The department shall present to the council in administrative rules the proposed changes in the service district boundaries, set forth in subsection 43B of this ordinance, as often as is necessary to ensure that the service district boundaries conform to sound planning or engineering principles.

K. To the extent practical, and in accordance with sound planning or engineering principles, the department shall develop and propose to the council for adoption precalculated fee schedules applicable to types of development in addition to residential development.

SECTION 45. There is added to K.C.C. Title 14 a new section to read as follows:

MPS - Multifamily Residential fee schedule. MPS - Multifamily Residential fee schedule: Fees for multifamily residential dwelling units shall be sixty (60) percent of the fees charged to single family residential dwelling units.

SECTION 46. There is added to K.C.C. Title 14 a new section to read as follows:

MPS - Payment of fees.

A. All developers shall pay an MPS fee in accordance with the provisions of this chapter at the time that the applicable development permit is ready for issuance. The fee paid shall be the amount in effect as of the date of permit application.

B. All developers shall pay an MPS administrative fee at the time of application for a development permit as set forth in sections 47 and 48 of this ordinance.

C. An individually determined MPS fee shall be calculated at the time of application for a development permit, after transmittal to the department of the information provided by the developer to DDES. The department's determination of the development's traffic impacts shall be transmitted to DDES for use in its review pursuant to the State Environmental Policy Act.

D. The fee as initially calculated after application for a development permit shall be recalculated at the time of payment if the development is modified or conditioned in such a way as to alter the trip generation rate for the development or the development's total peak hour trips.

E. No development permit shall be issued until the MPS fee is paid, except that developers of residential subdivisions, short subdivisions, urban planned developments, or planned unit developments may defer payment until building permits are issued for the lots within the subdivision, short subdivision or planned unit development.

F. A developer may obtain a preliminary determination of the MPS fee before application for a development permit, by paying a processing fee pursuant to section 47 of this ordinance and providing the department with the information needed for processing.

G. MPS fees may be paid under protest in order to obtain a permit or other approval of development activity.

SECTION 47. There is added to K.C.C. Title 14 a new section to read as follows:

MPS - Administrative Fees.

A. All development permits subject to the MPS fees pursuant to section 46 of this ordinance shall pay an administrative fee of $60.

B. All development permits which require an individually determined MPS fee pursuant to subsection 46C of this ordinance shall pay an administrative processing fee of $320.

SECTION 48. There is added to K.C.C. Title 14 a new section to read as follows:

MPS - Administrative Fee for Preliminary MPS Fee Calculation. Requests to the department for a preliminary determination of an MPS fee prepared pursuant to subsection 46F of this ordinance shall be charged the administrative processing fee set forth in section 47 of this ordinance.

SECTION 49. There is added to K.C.C. Title 14 a new section to read as follows:

MPS - MPS project list.

A. In conjunction with the department's annual review and update of the Transportation Needs Report (TNR) element of the King County comprehensive plan the department shall do the following:

1. Identify each project in the TNR that is growth-related and the proportion of each such project that is growth-related;

2. Forecast the total monies available from taxes and other public sources for road improvements over the multi-year program;

3. Calculate the amount of MPS fees already paid; and

4. Identify those MPS projects that have been or are being built but whose performance capacity has not been fully utilized.

B. The department shall use this information to prepare an annual Draft MPS Project List, which shall comprise:

1. The projects on the TNR, in order of priority, that are growth-related and that are capable of being funded with the forecast public monies and the MPS fees already paid; and

2. The MPS projects already built or funded pursuant to this chapter whose performance capacity has not been fully utilized.

C. The council, at the same time that it adopts the annual budget and appropriates funds for capital improvement projects, shall by

separate ordinance establish the annual MPS Project List by adopting, with or without modification, the department's draft list.

D. Once a project is placed on the MPS Project List, a fee shall be imposed on every development that impacts the project until the project is removed from the list by one of the following means:

1. The council by ordinance removes the project from the MPS Project List, in which case the fees already collected will be refunded if necessary to ensure that the MPS fee remains reasonably related to the traffic impacts of development that have paid an MPS fee; provided, that a refund shall not be necessary if the council transfers the fees to the budget of another project that the council determines will mitigate essentially the same traffic impacts; or

2. The capacity created by the project has been fully utilized, in which case the department shall administratively remove the project from the MPS Project List.

SECTION 50. There is added to K.C.C. Title 14 a new section to read as follows:

MPS - Funding of MPS projects.

A. An MPS trust and agency fund is hereby created. This MPS fund shall be a first-tier fund as described in King County Code Chapter 4.10. The director of the department of public works shall be the fund manager. MPS fees shall be placed in appropriate deposit accounts within the MPS fund.

B. The MPS fees paid to the county shall be held and disbursed as follows:

1. The fees collected for each MPS project shall be placed in a deposit account within the MPS fund;

2. The roads and engineering division is authorized to transfer the project fees held in the MPS fund to the CIP fund no less than once a year in the year following receipt of the fees;

3. The non-MPS fee monies appropriated for the MPS project shall comprise both the public share of the project cost and an advancement of that portion of the private share that has not yet been collected in MPS fees;

4. The first money spent by the department on an MPS project after a council appropriation shall be deemed to be the fees from the MPS fund;

5. Fees collected after a project has been fully funded by means of one or more council appropriations shall constitute reimbursement to the county of the public monies advanced for the private share of the project. The public monies made available by such reimbursement shall be used to pay the public share of other MPS projects or to pay for smaller-scale, growth-related projects that are not placed on the MPS Project List; and

6. All interest earned on the MPS fees paid by developers shall be retained in the account and expended for the purpose or purposes for which the impact fees were imposed.

C. MPS fees for transportation facility improvements shall be expended only in conformance with the transportation element of the King County Comprehensive Plan.

D. MPS projects shall be funded by a balance between MPS fees and other sources of public funds, and shall not be funded solely by MPS fees.

E. MPS fees shall be expended or encumbered for a permissible use within six (6) years of receipt, unless there exists an extraordinary or compelling reason for fees to be held longer than six (6) years. The department may recommend to the council that the county hold fees beyond six years in cases where extraordinary or compelling reasons exist. Such reasons shall be identified in written findings by the council.

F. The department and the council may pool the MPS fees already collected from a development whenever appropriate to help finance a project with high priority among the projects impacted by the development.

G. The department shall pool MPS fees whenever necessary to ensure that the fees are expended or encumbered for a permissible use within six (6) years of receipt. Pooling for such purpose shall be accomplished as follows:

1. The department shall determine which project has the highest priority among the projects for which MPS fees were collected for each such development, and the department shall transfer the MPS fees paid by the development to the budget of the project with the highest priority.

2. The department shall indicate in the TNR which projects have funds in their budget that have been pooled to ensure that they are expended or encumbered in a timely manner.

H. The department shall prepare an annual report on each MPS fee account showing the source and amount of all moneys collected, earned or received and transportation improvements that were financed in whole or in part by MPS fees.

SECTION 51. There is added to K.C.C. Title 14 a new section to read as follows:

MPS - Refunds.

A. A developer may request and shall receive a refund when the developer does not proceed with the development activity for which MPS fees were paid, and the developer shows that no impact has resulted. However, the MPS administrative fee shall not be refunded.

B. If a property owner appears to be entitled to a refund of MPS fees, the department shall notify the property owner by first class mail deposited with the United States postal service at their last known address. The property owner must submit a request for a refund to the council in writing within one year of the date the right to claim the refund arises or the date the notice is given, whichever is later. Any impact fees that are not expended or encumbered within the time limitations established by subsection 50E of this ordinance and

for which no application for a refund has been made within this one-year period, shall be retained and expended on the projects for which it was collected.

C. In the event that MPS fees must be refunded for any reason, they shall be refunded with interest earned to the property owners as they appear of record with the King County assessor at the time of refund.

D. When the county seeks to terminate any or all impact fee requirements, all unexpended or unencumbered funds shall be refunded pursuant to this section. Upon the finding that any or all fee requirements are to be terminated, the county shall place notice of such termination and the availability of refunds in a newspaper of general circulation at least two (2) times and shall notify all potential claimants by first class mail to the last known address of claimants. Claimants shall request refunds as in subsection B of this section. All funds available for refund shall be retained for a period of one year. At the end of one year, any remaining funds shall be retained by the county, but must be expended for the indicated road facilities. This notice of requirement shall not apply if there are no unexpended or unencumbered balances within an account or accounts being terminated.

SECTION 52. There is added to K.C.C. Title 14 a new section to read as follows:

MPS - Exemptions for schools.

A. Public school districts shall be exempted from payment of mitigation payment system fees.

B. The amount of the MPS fees not collected from school districts shall be paid from public funds other than impact fee accounts.

SECTION 53. There is added to K.C.C. Title 14 a new section to read as follows:

MPS - Exemption or reduction for low and moderate income housing.

A. Public housing agencies or private non-profit housing developers participating in publicly sponsored or subsidized housing programs may apply to the Department of Human Services (DHS) for exemptions from MPS fee requirements. DHS shall review proposed developments of low income or moderate housing by such public or non-profit developers pursuant to criteria and procedures adopted by administrative rule. If DHS determines that a proposed development of low or moderate income housing satisfies the adopted criteria, DHS shall notify the department and such development shall be exempted from the requirement to pay an MPS fee.

B. Private developers who dedicate residential units for occupancy by low or moderate income households may apply to P,P, & R for reductions in MPS fees. DHS shall review such proposed developments pursuant to criteria and procedures adopted by administrative rule. If DHS determines that a proposed development satisfies the adopted criteria, DHS shall notify the department and the department shall reduce the calculated MPS fee for

the development by an amount that is proportionate to the number of units in the development that satisfy the adopted criteria.

C. Developers of individual low or moderate income households who are building, contracting to build or siting a house may apply to DHS for an exemption from MPS fees. DHS shall review such proposed exemptions pursuant to criteria that include household income and assets, and the cost of the site, site improvements and the housing. The procedures used to evaluate an exception shall be adopted by administrative rule. If DHS determines that a household qualifies for exemption per the adopted criteria, DHS shall notify the department and such individual projects shall be exempted from the requirement to pay the MPS fee.

D. The amount of the MPS fees not collected from low or moderate income household development shall be paid from public funds other than impact fee accounts.

E. DHS is hereby instructed and authorized to adopt, pursuant to K.C.C. chapter 2.98, administrative rules to implement this section. Such rules shall provide for the administration of this program and shall:

1. Encourage the construction of housing for low or moderate income households by public housing agencies or private non-profit housing developers participating in publicly sponsored or subsidized housing programs;

2. Encourage the construction in private developments of housing units for low or moderate income households that are in addition to units required by another housing program or development condition;

3. Ensure that housing that qualifies as low or moderate cost meets appropriate standards regarding household income, rent levels or sale prices, location, number of units, and development size; and

4. Ensure that developers who obtain an exemption from or reduction of MPS fees pursuant to paragraphs A and B of this section will in fact build the proposed low and moderate cost housing and make it available to low income households for a minimum of fifteen (15) years.

SECTION 54. There is added to K.C.C. Title 14 a new section to read as follows:

MPS - Request for final decision needed to appeal. In order to obtain an appealable final decision the developer must:

A. Request in writing a review of the fee amount by department staff. The department staff shall consider any studies and data submitted by the developer seeking to adjust the amount of the fee; and

B. Request in writing reconsideration by the director or the director's designee of an adverse decision by staff. Such request for reconsideration shall state in detail the grounds for the request. The director or the director's designee shall issue a final, appealable decision after reviewing the request.

SECTION 55. There is added to K.C.C. Title 14 a new section to read as follows:

MPS - Necessity of compliance. A development permit issued after the effective date of the MPS provisions of this ordinance shall be null and void if issued without substantial compliance with this chapter by the department, DDES and the developer.

SECTION 56. There is added to K.C.C. Title 14 a new chapter to read as follows:

"Intersection Standards (IS)"

SECTION 57. There is added to K.C.C. Title 14 a new section to read as follows:

IS - Authority and Purpose.

A. This ordinance is enacted pursuant to the State Environmental Policy Act, K.C.C. 20.44, and R.C.W. 58.17 and the King County charter as a home rule county, Article 11, § 11 of the Washington State Constitution.

B. The purpose of this chapter is to:

1. Assure adequate levels of service, safety, and operating efficiency on the King County road system, at intersections serving and directly impacted by proposed new development;

2. Establish standards for intersection operation and define the relationship between new developments on road intersection function;

3. Identify development conditions to assure intersection capacity, safety and operational efficiency; and

4. Require that owners of new developments pay the proportionate costs of required intersection improvements.

SECTION 58. There is added to K.C.C. Title 14 a new section to read as follows:

Highway Capacity Manual. Highway Capacity Manual: Special Report 209 of the Transportation Research Board of the National Research Council, as currently amended.

SECTION 59. There is added to K.C.C. Title 14 a new section to read as follows:

Road Standards. Road Standards: the King County Road Standards, 1993, K.C.C. 14.42 (Ordinance 11187, 1993). Terms used in the Road Standards shall have the same meaning when used in this ordinance. References and authorities cited in the Road Standards shall also apply to this ordinance.

SECTION 60. There is added to K.C.C. Title 14 a new section to read as follows:

IS Significant Adverse Impacts. IS Significant Adverse Impacts: For the purposes of SEPA and this chapter, a significant adverse traffic impact is defined as any traffic condition directly caused by proposed development that would reasonably result in one or more of the following conditions at the time any part of the development is completed and able to generate traffic:

A. A roadway intersection that provides access to a proposed development, and that will function at a level of service worse than "E", and that will carry thirty (30) or more added vehicles in any one (1) hour period as a direct impact of the proposed development, and that will be impacted by at least twenty (20) per cent of the new traffic generated from the proposed development in that same one (1) hour period; or

B. A roadway intersection or approach lane where the director determines that a hazard to safety could reasonably result

SECTION 61. There is added to K.C.C. Title 14 a new section to read as follows:

IS - Mitigation and Payment of Costs.

A. Based on the identification of Intersection Standards being exceeded using analytical techniques and information acceptable to the director, the owner of a proposed development shall be required to provide improvements which bring the intersection into compliance with IS, or that return it to its pre-project condition, as may be required by the director. Approval to construct the proposed development shall not be granted until the owner has agreed to build or pay fair and equitable costs to build the improvements required by the director within the time schedule set by the director.

B. At the discretion of the director, and based on technical information regarding traffic conditions and expected traffic impacts, the county may require that the owner of a proposed development pay the full costs of required IS improvements required under this title.

SECTION 62. There is added to K.C.C. Title 14 a new section to read as follows:

IS - Interjurisdictional Agreements.

A. Nothing in this section shall prevent the county from entering into agreements with the WSDOT or other local jurisdictions for the collection of fees and the mitigation of traffic on state highways or city arterials that may be caused by developments proposed in King County. The level of service standards used in such agreements shall be those of the county, the WSDOT, the local jurisdiction, or some combination of them, as provided in the agreement.

B. Nothing in this section shall prevent the continuation, modification, or fulfillment of existing county agreements with the WSDOT and local jurisdictions that were in force at the effective date of this ordinance.

SECTION 63. There is added to K.C.C. Title 14 a new section to read as follows:

IS - Relation to Other Permit Authority. IS - Relation to Other Permit Authority: The procedures set forth in this chapter do not limit the authority of King County to deny or to approve with conditions the following:

A. Any zone reclassification request, based on its expected traffic impacts;

B. Any proposed development or zone reclassification if King County determines that a hazard to safety would result from its direct traffic impacts without roadway or intersection improvements, regardless of level of service standards; or

C. Any proposed development reviewed under the authority of the Washington State Environmental Policy Act.

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SECTION 64. There is added to K.C.C. Title 14 a new section to read as follows:

Administrative Rules and Procedures. Administrative Rules and Procedures: The director is hereby instructed and authorized to adopt such administrative rules and procedures as are necessary to implement the provisions of this ordinance.

SECTION 65. There is added to K.C.C. Title 14 a new section to read as follows:

Severability. Severability: Should any section, subsection, paragraph, sentence, clause or phrase of this ordinance be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portion of this ordinance.

NEW SECTION 66. Should any section, subsection, paragraph, sentence, clause or phrase of this ordinance or its application to any person or circumstance be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portion of this ordinance or its application to other persons or circumstances.

Ms. Sullivan moved the flexible amendment. The motion PASSED 12-0, Ms. Haque excused.

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Amendment to Proposed Ordinance 94-_____ Sponsored by: Vance

Insert just prior to the severability clause at the end of the ordinance the following new section:

SECTION __: Amendments to this ordinance as passed by the council on December 19, 1994 are set forth in Attachment C to this ordinance and are incorporated by reference herein. Due to the number and length of the ordinances required by the Growth Management Act to be passed by the end of the year to amend county development regulations and the unavailability of a reliable electronic text version of the proposed ordinance as introduced, it may not be possible to prepare an ordinance that incorporates amendments within each section prior to the charter deadline for transmitting the adopted ordinance to the executive. The clerk is hereby authorized to transmit the ordinance with amendments set forth in an attachment, or, if time allows, to incorporate the amendments within each section.