

Chapter 14.10

MULTIMODAL CONCURRENCY CODE

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14.10.005 Purpose.

The purpose of this chapter is to:

- A. Comply with the requirement of the Growth Management Act (GMA) that the City; “adopt and enforce ordinances which prohibit development approval if the development causes the level of service on a transportation facility to decline below the standards adopted in the Transportation Element of the Comprehensive Plan, unless transportation improvements or strategies to accommodate the impacts of development are made concurrent with the development”;
 - B. Implement the City’s multimodal concurrency standard set forth in Transportation Element Policy TR-28, providing plan-based system completeness to accommodate future development;
 - C. Provide for “concurrency testing” prior to the submittal of a development application in order to assess development impacts and to determine whether a proposed development meets the City’s multimodal concurrency standard;
 - D. Document a development’s compliance with the multimodal concurrency standard by providing for the issuance of a certificate of concurrency for developments that pass the concurrency test; and
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E. Provide options for developments that do not pass the concurrency test, subject to the approval of the Director.

14.10.010 Definitions.

For purposes of this chapter, the following definitions apply:

- A. "Concurrency" means a requirement of the Growth Management Act (RCW [36.70A.070\(6\)](#), now or as hereafter amended) that the city must enforce an ordinance precluding approval of a proposed development if that development would cause the level of service of the Transportation System to fall below the city's adopted standard, unless a financial commitment is in place to complete mitigating transportation improvements or strategies within six years. Transportation demand management or other strategies may be used as allowed by this code.
- B. "Development" means any construction, improvement, or expansion of a building, structure, or use for which a permit, approval, or other authorization is required that creates additional demand and need for transportation improvements.
- C. "Director" means the director of the transportation department for the city of Bellevue, the director's authorized representative, or any representative authorized by the city manager.
- D. "Fully funded project" means a Transportation System project or that portion of a project in the most recently adopted Capital Investment Program (CIP) plan for the city which has sufficient funding committed for construction.
- E. "Level-of-Service (LOS) Standard". Comprehensive Plan Transportation Policy TR-28 establishes the City's transportation LOS standard. This chapter regulates compliance with the transportation LOS standard using the concept of plan-based system completeness as measured by Mobility Units. To determine compliance with the transportation LOS standard, the City annually measures the Mobility Unit Demand from all new development and the Mobility Unit Supply available from the City's six-year CIP plan. The transportation LOS standard is met when the Mobility Unit Supply is greater than or equal to the Mobility Unit Demand.
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F. "Mitigation". For the purposes of this chapter, mitigation means reducing the Mobility Unit Demand created by a development to less than or equal to the Mobility Unit Supply available, or increasing the Mobility Unit Supply available to equal to or more than the Mobility Unit Demand created by a development through the methods described in this chapter.

G. "Mobility Unit" or "MU" means the key metric the City uses to determine compliance with the Level of Service (LOS) standard. Mobility Units measure both demand and supply.

H. "Mobility Unit Demand" or "MU Demand" means the total number of net new P.M. peak period Person Trips generated by a development weighted by mode and dependent on land use.

I. "Mobility Unit Supply" or "MU Supply" means MUs created when the City obligates funds through the CIP plan to build new transportation facilities that support growth.

J. "Person-trip" means a new trip to or from a development made via any mode of travel. Person Trips include vehicle, walk, bike, transit, and other modes (wheelchair, shuttle, scooter, etc.).

K. "P.M. peak hour" means the one hour of highest volume of Person Trips entering and exiting the site between the hours of 3:00 p.m. and 7:00 p.m.

L. "System Completeness" means the implementation of a Transportation System provided by the City that aligns with a given amount of growth to improve mobility for all modes of travel.

M. "Transportation Demand Management" means strategies designed to increase the efficiency of existing capital transportation facilities, including, but not limited to, transit and ridesharing incentives, flexible working hours, parking management, and pedestrian and bicycle network enhancements to decrease single occupancy vehicle trips. Minimum Transportation Demand Management requirements for development are defined in the Transportation Development Code 14.60.070.

N. "Transportation System" means a network of facilities that provide mobility for pedestrian, bicycle, transit, or vehicle modes of travel.

14.20.020 Application and administration.

A. This section applies to:

1. All development applications filed after its effective date that generate demand for more than 25 MUs.
2. *Phased Development.* A phased development is any development involving multiple buildings where issuance of building permits could occur for individual buildings. The requirements of this section shall be applied at the time of approval of the initial phase and may be adjusted for each subsequent phase based on the cumulative impact of all the phases.
3. *Single Projects.* All development applications which have been submitted by the same developer on the same or contiguous parcel of land as a single project within the three-year period immediately prior to a current application will be considered along with the current application as being a single application for purposes of determining under subsection (A)(1) of this section, whether this section applies.
4. *Change in Occupancy.* This section will apply to applications for tenant improvements if a proposed new use or an expanded existing use will generate demand for more than 25 additional MUs.
5. *Reconstruction of Destroyed Buildings.* If a building is destroyed by fire, explosion, or act of God or war, or is demolished and is reconstructed in accordance with the BCC, it will not be required to comply with this section unless the reconstructed building generates demand for more than 25 MUs in excess of those produced by the building prior to its destruction.
6. *Concomitant and Development Agreements.* This chapter applies to any development application that is subject to an existing concomitant or development agreement unless the agreement specifically provides otherwise.

B. *SEPA.* This chapter establishes minimum requirements applicable to all developments and is not intended to limit the application of the State Environmental Policy Act to specific proposals. Each proposal shall be reviewed and may be conditioned or denied under the

authority of the State Environmental Policy Act and the Bellevue Environmental Procedures Code (Chapter [22.02](#) BCC).

C. *Administration.* The Director shall be responsible for the administration of this chapter. The Director may adopt rules for the implementation of this chapter; provided a public hearing shall first be held before the Transportation Commission. Notice of intent to adopt any rule and the date, time and place of the public hearing shall be published in a newspaper of general circulation in the city at least 14 days prior to the hearing date. Any person may submit written comment to the Transportation Commission in response to such notice, and/or may speak at the public hearing. Following the public hearing the Director shall adopt, adopt with modifications, or reject the proposed rules.

14.10.030 Concurrency and the Level-of-Service standard.

A. The City shall issue a certificate of concurrency only if the City is able to determine that the unallocated MU Supply necessary to provide for the MU Demand from a proposed development is available at the time of opening or within six years, consistent with the City's transportation LOS standard.

B. To calculate the MU supply available to serve proposed development during the required six-year concurrency period, the City shall include complete and fully funded projects from the City's six-year Capital Investment Program (CIP) plan.

C. The Director will use the Comprehensive Plan's land use growth target to determine the MU Demand expected from the growth target and will determine the MU Supply for the planning period using a financial forecast of the funding available for implementation of projects that will contribute to achieving System Completeness for all travel modes.

D. The MU Supply provided for the planning period will be implemented through the City's six-year CIP plan. The Director shall calculate the MU Supply available in each year of the CIP plan and determine transportation concurrency for each new development by ensuring that the MU Demand from a development does not exceed the MU Supply that the City is able to provide for that development through fully-funded projects.

14.10.040 Review of development proposals.

A Person Trip generation rate schedule for land use types and units of development will be approved by the Director and available for use to calculate Person Trips for development projects. Other trip generation rate sources may be used where special trip-generating characteristics of the development project exist, as determined by the Director.

A. *Application and Concurrency Testing.* Any proposed development which is subject to this chapter shall be tested for transportation concurrency by the Director to determine compliance with the City's transportation concurrency policies and regulations. A proposed development passes the transportation concurrency test if the MU Demand from the proposed development is less than or equal to the unallocated MU Supply.

B. *Concurrency Reservation.* Any development required to comply with the provisions of this chapter shall obtain a concurrency reservation. A proposed development project will receive a concurrency reservation when it passes the concurrency test that will reserve the MUs needed for the development from the supply of available MUs. This reservation is required to be provided with the permit application for the project. The reservation will be valid for one year, and if not used will return the MUs to the available supply. If a project development permit application has been received and is under review, the Director may extend the reservation for an additional year.

C. *Certificate of Concurrency.* The Director shall issue a certificate of concurrency to a proposed development that passes the concurrency test in conjunction with the project development permit approval.

A certificate of concurrency shall include the location of the development proposal, the number of MUs allocated, and the implementing permit number to which the certificate applies and any further information necessary to administer this chapter. The certificate may not be transferred to another proposed development.

The certificate of concurrency will become invalid if a complete building permit application is not received by the City within one year of the certificate being issued. A certificate of concurrency issued to a phased project will remain valid for up to six years if continuous permitting activity is maintained.

C. *Certificate of Concurrency Denial.* A certificate of concurrency will be denied if the available MU Supply is less than the MU Demand from the proposed development.

D. *Director's Determination and Appeal Process.*

1. The Director shall issue a concurrency determination approving, approving with mitigation, or denying the development proposal in accordance with this chapter.
2. The concurrency determination shall be issued in writing. Notice of the Director's decision and any mitigation required shall be published ~~in~~ in a newspaper of general circulation, which may be consolidated with any other notice required by the Bellevue Land Use Code or Environmental Procedures Code.
4. Any party who has standing to appeal may appeal the Director's decision to the hearing examiner pursuant to the Process II appeal procedures, BCC (Land Use Code) 20.35.250. If notice of the concurrency determination was consolidated with notice of a decision on the underlying development proposal, the appeal of the concurrency determination shall be consolidated with any appeal of the underlying development proposal.
5. Any appeal of the Director's decision must be filed with the city clerk within the time period required in Process II, BCC (Land Use Code) 20.35.200 et seq.

14.10.050 Available mitigation when the MU Supply is insufficient to serve a proposed development.

- A. If a development is tested for transportation concurrency, and does not pass, the developer may:
1. Reduce the size of the proposed development until the MU Demand is equal to or less than the MU Supply that is available;
 2. Delay the proposed development until the City or others increase the MU Supply;
 3. Obtain supplemental mitigation by purchasing sufficient MUs to serve the MU Demand of the proposed development or constructing an improvement approved by the Director that increases the MU Supply;
 4. Upon approval by the Director, a developer may implement TDM strategies as supplemental mitigation provided that the MU Demand from a proposed development is reduced due to the elimination of trips, and the TDM strategies
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become a legal project approval condition of the development and shall meet the following requirements:

- i. These strategies must be in addition to the TDM requirements for the development in BCC 14.60.070
- ii. These strategies shall be pre-negotiated and approved by the Director;
- iii. There shall be methods to monitor and enforce TDM performance, and a plan to adjust or supplement TDM measures if the development fails to meet TDM goals;
- iv. The TDM strategies become a condition tied to all future owners of the development and property; and
- v. The TDM strategies meet the criteria of subsection C below.

B. *Payment for and Timing of Supplemental Mitigation.* If allowed by the Director, a developer may provide funding in an amount equal to the City's estimated cost of the MUs needed for the development to achieve concurrency. The cost per MU supplied shall be determined by the Director. The Director, with the concurrence of other affected City departments, may provide for latecomer agreements as provided by state law or for other reimbursement from properties benefited by the improvements unless the City Council finds reimbursement to be inappropriate. The Director may require that a developer build or implement a transportation improvement, rather than provide funding.

Funds for MUs must be paid by the developer to the City prior to issuance of a building permit, final plat approval, or other approval requiring a concurrency certificate under this section. A developer providing supplemental mitigation may receive credit towards payment of required transportation impact fees. Credit determination shall be made pursuant to BCC 22.16.087.

C. Supplemental Mitigation Decision Criteria – Acceptable Supplemental Mitigation requires a finding by the Director that:

1. The supplemental mitigation is identified in the City's Transportation Improvement Program (TIP) or if a developer proposes as supplemental mitigation a transportation improvement that is not identified in the TIP, the transportation

improvement must first be considered and approved to be added to the TIP before the supplemental mitigation is approved.

2. The MU Supply provided by the supplemental mitigation is available concurrent with the development or that a financial commitment is in place to complete the improvement that provides the MU Supply within six years.

3. The effect of the improvement would not result in a reduction or the loss of another transportation objective, including but not limited to maintaining high occupancy vehicle lanes, sidewalks, paths, trails, or bicycle lanes.

4. Any adverse environmental impacts of the proposed transportation improvement can be reasonably mitigated.

5. The improvement is consistent with accepted engineering and planning standards and practices.

6. Where practical, transportation improvements required as part of supplemental mitigation should be made at locations most impacted by the development.

D. *Supplemental Mitigation Denial Process.* If the Director determines that the proposed supplemental mitigation does not meet the requirements of this section, the Director may deny the issuance of a certificate of concurrency.