

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:

1 **Components of the integrated transportation program.**

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

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

10 B. Mitigation Payment System (MPS), by which King County
11 will apply transportation impact fees to new development for
12 collecting a fair and equitable share of transportation
13 improvement costs that are needed in accordance with R.C.W.
14 82.02 and the King County comprehensive plan.

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

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

24 **Relationships among the three components of the ITP.**

25 A. Permit Processes:

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

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

1 B. Calculation of Trips Generated by a Development:

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

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

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

24 C. Calculation

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

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

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

43 D. Standards

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

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

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

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

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

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

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

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

27 1. An administrative fee of sixty dollars (\$60.00) shall
28 be charged to the applicant for the TAM determination of
29 concurrency of a proposed development using analytical
30 materials currently available to the DPW. In some cases,
31 existing analytical materials may not be sufficient to make a
32 determination of concurrency for the proposed development and
33 an individual concurrency test will be required. An
34 administrative fee of three hundred and twenty dollars
35 (\$320.00) shall be charged to the applicant for the
36 individual determination of concurrency of a proposed
37 development. The method and time of collection of
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1 administrative fees for the concurrency test shall be stated
2 in the administrative rules for this title.

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

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

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

22 Nothing in this ordinance shall cause a developer to pay
23 mitigation and impact fees more than once for the same
24 impact. Improvements and mitigation measures shall be
25 coordinated by the director with other such improvements and
26 measures attributable to other proposed developments, and
27 with the county road improvement program so that the county
28 road system is improved efficiently and effectively, with
29 minimum costs to be incurred by public and private entities.
30 The provisions of this Title do not supersede or replace the
31 provisions of the County SEPA authority as enacted in K.C.C.
32 20.44.

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

35 **Filing Appeals.**

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

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

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

46 **Grounds for Appeal.**

47 A. For appeals of denial or conditional approval of a
48 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

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

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

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

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

3 **Certificate of Concurrence.** Certificate of
 4 concurrence: the document issued by the county indicating:

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

7 B. The number of development units and specific uses,
 8 densities, and intensities that were tested for concurrence
 9 and approved,

0 C. The type of development approval for which the
 1 certificate of concurrence is issued,

2 D. An effective date, and

3 E. An expiration date.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

47 **Financial Commitment.** Financial Commitment consists of
48 the following:

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

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

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

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

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

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

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

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

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

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

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

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

47 **TCM - Requirement for Certificate of Concurrency.**

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

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

6 **TCM - Concurrency Test.**

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

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

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

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

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

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

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

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

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

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

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

2 3. Appeal the denial of the application for a certificate
 3 of concurrency, pursuant to the provisions of sections 5 and
 4 6 of this ordinance. The county shall reserve any available
 5 development units during the appeal.

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

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

5 **TCM - Exemptions from Concurrency.**

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

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

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

5 3. Renewals of previously issued, unexpired permits; and

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

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

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

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

11 **TCM - Certificate of Concurrency.**

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

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

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

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

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

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

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

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

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

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

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

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

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

5 **TCM - Fees.**

6 A. The county shall charge an administrative fee for
7 conducting the concurrency test in accordance with section
8 4F of this ordinance. The concurrency test fee shall not be
9 refundable.

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

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

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

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

3 **TCM - Provide Needed Transportation Facilities.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 **"Mitigation Payment System"**

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

4 **MPS - Authority and purpose.**

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

0 B. The purposes of this chapter are to:

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

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

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

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

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

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

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

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

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

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

4 B. On a city road in a city within King County when the
5 city has an ordinance implementing the Growth Management Act
6 of 1990, RCW Chapter 82.02, and when King County has an
7 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:

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

3 **MPS - Calculation of MPS fees.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 director determines that these local measurements are more
2 accurate; or

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

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

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

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

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

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

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

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

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

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

28 b. Cost of existing transportation facility
29 improvements; and

30 c. Methods by which transportation facility improvements
31 were financed;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 **MPS - Payment of fees.**

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

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

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

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

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

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

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

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

5 **MPS - Administrative Fees.**

6 A. All development permits subject to the MPS fees
7 pursuant to section 46 of this ordinance shall pay an
8 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.

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

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

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

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

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

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

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

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

5 **MPS - Refunds.**

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

1 B. If a property owner appears to be entitled to a
2 refund of MPS fees, the department shall notify the property
3 owner by first class mail deposited with the United States
4 postal service at their last known address. The property
5 owner must submit a request for a refund to the council in
6 writing within one year of the date the right to claim the
7 refund arises or the date the notice is given, whichever is
8 later. Any impact fees that are not expended or encumbered
9

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

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

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

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

26 **MPS - Exemptions for schools.**

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

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

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

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

36 A. Public housing agencies or private non-profit
 37 housing developers participating in publicly sponsored or
 38 subsidized housing programs may apply to the Department of
 39 Human Services (DHS) for exemptions from MPS fee
 40 requirements. DHS shall review proposed developments of low
 41 income or moderate housing by such public or non-profit
 42 developers pursuant to criteria and procedures adopted by
 43 administrative rule. If DHS determines that a proposed
 44 development of low or moderate income housing satisfies the
 45 adopted criteria, DHS shall notify the department and
 46 such development shall be exempted from the requirement to
 47 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:

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

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

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

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

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

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

23 **"Intersection Standards (IS)"**

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

26 **IS - Authority and Purpose.**

27 A. This ordinance is enacted pursuant to the State
 28 Environmental Policy Act, K.C.C. 20.44, and R.C.W. 58.17 and
 29 the King County charter as a home rule county, Article 11, §
 30 11 of the Washington State Constitution.

31 B. The purpose of this chapter is to:

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

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

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

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

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

45 **Highway Capacity Manual.** Highway Capacity Manual:
 46 Special Report 209 of the Transportation Research Board of
 47 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: