

ORDINANCE O-4509

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO TRANSPORTATION CONCURRENCY AND AMENDING TITLE 25 OF THE KIRKLAND MUNICIPAL CODE, "CONCURRENCY MANAGEMENT."

1           WHEREAS, Kirkland's 2035 visioning process identified the desire  
2 to keep Kirkland a livable, walkable community where there are many  
3 choices for transportation; and  
4

5           WHEREAS, this vision was embodied in the 2015 Comprehensive  
6 Plan update, including in the new Transportation Element by using a  
7 multi-modal approach and focusing on moving people on a variety of  
8 facilities for all modes; and  
9

10           WHEREAS, concurrency helps balance the impacts of new  
11 development as outlined in the Land Use Element of the 2015  
12 Comprehensive Plan update with construction of the transportation  
13 network as described in the Transportation and Capital Facilities  
14 Elements of the Comprehensive Plan; and  
15

16           WHEREAS, Kirkland's Transportation Concurrency system should  
17 reflect the goals and policies of the Transportation Element of the 2015  
18 Comprehensive Plan update; and  
19

20           WHEREAS, in order to reflect those goals and polices, changes  
21 to the Transportation Concurrency system are needed such as  
22 considering travel by people in all modes and by considering a wide  
23 range of transportation improvements that provide capacity; and  
24

25           WHEREAS, other changes are needed to the Transportation  
26 Concurrency system to make it easier for people to understand and  
27 simpler to work with.  
28

29           NOW, THEREFORE, the City Council of the City of Kirkland do  
30 ordain as follows:  
31

32           Section 1. Kirkland Municipal Code ("KMC") Section 25.06.020  
33 is amended to read as follows:  
34

35   25.06.020   Concurrency: Accounted ~~traffie~~ transportation impact.  
36   "Accounted transportation ~~traffie~~ impact" means transportation ~~traffie~~  
37   impacts accounted for in the city's concurrency records in a manner that  
38   accounts for the impact from the project and allows the impact to be  
39   accounted for by any other applicant preparing a transportation ~~traffie~~  
40   analysis for a concurrency application. The amount of accounted  
41   transportation ~~traffie~~-impact for a project is documented in the  
42   certificate of concurrency.

43           Section 2. KMC Section 25.06.060 is amended to read as  
44 follows:

45  
46 25.06.060     Building permit.  
47 "Building permit" refers to any permit issued under the International  
48 Uniform Building Code. Exempt building permits are set forth in Chapter  
49 25.08 of this title.

50  
51           Section 3. KMC Section 25.06.070 is amended to read as  
52 follows:

53  
54 25.06.070     Certificate of concurrency.  
55 "Certificate of concurrency" means the statement accompanying the  
56 public works department's development standards that are issued with  
57 an approved development permit or the public works department's  
58 conditions of approval that are issued with an approved building permit.  
59 The statement shall state that a certificate of concurrency is issued and  
60 indicate:

- 61 (1) For sewer and water, the capacity of the concurrency facilities that
- 62 are available and reserved for the specific uses, densities and intensities
- 63 as described in the development permit or building permit;
- 64 (2) For road facilities, the accounted transportation traffic impact
- 65 assigned to the development for the specific uses, densities and
- 66 intensities as described in the development permit or building permit;
- 67 (3) Conditions of approval, if applicable;
- 68 (4) An effective date; and
- 69 (5) An expiration date.

70  
71           Section 4. KMC Section 25.06.080 is amended to read as  
72 follows:

73  
74 25.06.080     Concurrency:  
75 "Concurrency" means facilities or strategies that achieve the city's level  
76 of service standards and that:

- 77 (1) For sewer, water and roads, exist at the time development is
- 78 approved by the public works department; or
- 79 (2) For roads:
- 80 (a) Are ~~planned-funded~~ in the ~~comprehensive plan~~ Transportation
- 81 Capital Facilities Plan at the time development is approved by the public
- 82 works department; or
- 83 (b) Will be available and complete no later than six years after
- 84 completion of the development, and the applicant and/or the city
- 85 provides a financial commitment which is in place at the time the
- 86 development is approved by the public works department.

87  
88           Section 5. KMC Section 25.06.100 is amended to read as  
89 follows:

90  
91 25.06.100     Concurrency test:

92 "Concurrency test" means:  
 93 (1) For sewer and water, the comparison of a development's demand  
 94 to the available capacity of each concurrency facility;  
 95 (2) For roads, the comparison of the development's ~~impact on the~~  
 96 level of service amount of estimated person trip generation to the  
 97 amount of person trips available to accommodate new growth.  
 98 ~~standards of each affected subarea.~~  
 99 A concurrency test must be passed for sewer, water and roads, and a  
 100 notice issued by the public works department in order to obtain a  
 101 certificate of concurrency.  
 102 The concurrency test notice shall be valid for one year.

103  
 104 Section 6. KMC Section 25.06.110 is amended to read as  
 105 follows:  
 106

107 25.06.110 Development permit.  
 108 "Development permit" means a land use permit. Development permits  
 109 include short plat, preliminary or final rezone/reclassification, zoning  
 110 permit, master plan, shoreline substantial development  
 111 permit/conditional use permit, planned unit development, design review  
 112 or any other permit or approval under the zoning code or subdivision  
 113 ordinance or shoreline master program. Exempt development permits  
 114 are set forth in Chapter 25.08 of this title.

115  
 116 Section 7. A new KMC Section 25.06.145 is added to read as  
 117 follows:  
 118

119 25.06.145 Person trip.  
 120 "Person trip" means a measure of trip generation equal to one PM peak  
 121 hour trip by a person in any mode of transportation.  
 122

123 Section 8. KMC Section 25.06.150 is amended to read as  
 124 follows:  
 125

126 25.06.150 Planned capacity.  
 127 "Planned capacity" means ~~road transportation facilities for pedestrians,~~  
 128 bicycles, transit and motor vehicles that do not exist but for which the  
 129 necessary facility construction, expansion, or modification project is  
 130 contained in the current capital facilities element of the comprehensive  
 131 plan. The improvements must be scheduled to be completed within six  
 132 years and the financial commitment must be in place at the time of  
 133 approval of the certificate of concurrency to complete the improvements  
 134 within six years.

135  
 136 Section 9. A new KMC Section 25.06.165 is added to read as  
 137 follows:  
 138

139 25.06.165 Roads.

140 "Roads" means transportation facilities for pedestrians, bicycles, transit  
141 and motor vehicles.

142

143 Section 10. KMC Section 25.08.010 is amended to read as  
144 follows:

145

146 25.08.010 Exemptions.

147 The following development permits or building permits are exempt from  
148 the requirements of this title:

149 (1) Accessory dwelling units as defined in the KZC 5.10.017;

150 (2) Annexations;

151 (3) Any addition or accessory structure to a residence with no change  
152 in use;

153 (4) Business licenses;

154 (5) Categorically exempt construction under Sections 24.02.060 and  
155 24.02.065 of Chapter 24.02, SEPA Procedures and Policies, in this code  
156 unless such construction is estimated to result in 40 or more person trips  
157 in which case such construction is not exempt from road concurrency;

158 (6) Categorically exempt construction or activities under Sections  
159 24.02.060 and 24.02.065 of Chapter 24.02, SEPA Procedures and  
160 Policies, in this code, even though they:

161 (a) Are undertaken wholly or partly on lands covered by water;

162 (b) Are undertaken wholly or partly on lands in a high landslide hazard  
163 area;

164 (c) Are undertaken wholly or partly on lands in a seismic hazard area;

165 (d) Contain structures or facilities with recognized historical  
166 significance;

167 (e) Exceed the limit of landfill or excavation; and/or

168 (f) Contain an off-premises commercial sign;

169 (7) Cellular antennas and satellite dishes;

170 (8) Demolitions;

171 (9) Driveway, resurfacing, or parking lot paving; provided, that  
172 additional vehicular trips are not generated;

173 (10) Electrical, plumbing, and mechanical permits;

174 (11) Expansions or phases of development or building permits that were  
175 disclosed by the applicant and subject to a concurrency test as part of  
176 the original application; provided, that the certificate of concurrency was  
177 issued for the expansion or subsequent phase;

178 (12) Final planned unit development (if a concurrency test was  
179 conducted and approved for the corresponding preliminary planned unit  
180 development);

181 (13) Final plats (if a concurrency test was conducted for the  
182 corresponding preliminary plat permit);

183 (14) Final rezone (if a concurrency test was conducted and approved  
184 for the corresponding intent to rezone);

185 (15) Interior renovations or replacement structure with no change in  
186 use or increase in floor area;

- 187 (16) Interior renovations of a structure for new use(s) with the same or  
 188 less intensity as the existing use or a previously approved use and with  
 189 no increase in floor area;  
 190 (17) Land surface modification permits;  
 191 (18) Lot line adjustments;  
 192 (19) Outdoor cafe permits;  
 193 (20) Reroofing of structures;  
 194 (21) Side sewer permit for single-family residence;  
 195 (22) Sign permits and master sign plans;  
 196 (23) Street use permits and right-of-way permits;  
 197 (24) Street vacations;  
 198 (25) Subdivision vacations/alterations;  
 199 (26) Subsequent building permit for an approved development permit if  
 200 a concurrency test was approved for the development permit and there  
 201 is no change in use, densities, and intensities;  
 202 (27) Temporary construction trailers;  
 203 (28) Temporary use permits;  
 204 (29) Variances;  
 205 ~~(30) Design review;~~  
 206 (31) Water service permit for single-family residence; and  
 207 ~~(32)~~ (31) Any other development permit or building permit which the  
 208 public works department determines has no impact on the concurrency  
 209 facility.

210  
 211 Section 11. KMC Section 25.08.020 is deleted.

212  
 213 Section 12. KMC Section 25.10.020 is amended to read as  
 214 follows:

215  
 216 25.10.020 Procedures.

- 217 (1) Applications for concurrency shall be submitted on forms provided  
 218 by the public works department and shall be tested in the order that the  
 219 public works department determines the application is complete.  
 220 (2) The applicant shall be responsible to provide to the public works  
 221 department a certificate of availability for sewer and water with the  
 222 concurrency application submittal if the property is serviced by a noncity  
 223 managed utility.  
 224 (3) The applicant shall submit vehicular and person trip generation  
 225 analysis for and a ~~detailed project~~ description of the development,  
 226 including location, ~~vehicular circulation~~ and gross floor area by use, with  
 227 the concurrency application.  
 228 (4) A concurrency test shall be performed only for specific property,  
 229 uses, densities, and intensities based on the information in the  
 230 completed concurrency application provided by the applicant. The  
 231 applicant shall specify densities and intensities that are consistent with  
 232 the uses allowed in Title 23, the zoning code for the property. If the  
 233 concurrency test is being requested in conjunction with a rezoning, the  
 234 applicant shall specify densities and intensities that are consistent with

235 the proposed zoning for the property. Changes to the uses, densities,  
 236 and intensities that create an additional impacts- of more than 10 person  
 237 trips or that result in a total project impact of more than 40 person trips  
 238 on concurrency facilities shall be subject to an additional concurrency  
 239 test. Changes to the uses, densities, and intensities that create a  
 240 reduced impact do not require an additional concurrency test.

241 (5) The public works official will perform the concurrency test prior to  
 242 approval of the development permit or building permit.

243 (6) The public works official will notify the applicant of the test results  
 244 (approval or denial) in writing and will notify other city departments of  
 245 the test results and post the results on an area of the public City of  
 246 Kirkland website designated for such notice within the time period  
 247 established in the department's administrative procedures for  
 248 concurrency. The date of the written notification to the applicant shall  
 249 be the date of issuance of the concurrency test notice.

250 ~~(7) The concurrency test notice shall expire within ninety calendar~~  
 251 ~~days of its issuance unless the applicant submits a SEPA environmental~~  
 252 ~~checklist and all of its required documentation pursuant to Sections~~  
 253 ~~24.02.055 and 24.02.140 of Chapter 24.02 of this code, together with~~  
 254 ~~the site plan, the traffic impact analysis prepared in accordance with the~~  
 255 ~~city's traffic impact analysis guidelines and containing the traffic~~  
 256 ~~information derived from the concurrency test outcome and the SEPA~~  
 257 ~~review fee described in Chapter 5.74 of this code. No extensions may~~  
 258 ~~be granted for submitting a complete SEPA environmental checklist and~~  
 259 ~~all required documentation.~~

260 ~~(8) If the deadline for submitting a complete SEPA environmental~~  
 261 ~~checklist and all required documentation is met as described above in~~  
 262 ~~subsection (7) of this section, the concurrency test notice shall be valid~~  
 263 ~~for one year from the date of issuance of the concurrency test notice.~~

264 ~~(9)~~ The concurrency test notice shall expire unless a certificate of  
 265 concurrency is issued or an extension of the notice is granted within one  
 266 year from the date of issuance of the notice.

267 ~~(10)~~ An applicant must apply for a new concurrency test if the notice  
 268 expires or an extension is not granted.

269 ~~(11)~~ The public works official may approve an extension of up to one  
 270 year if:

271 (a) The applicant submits a letter in writing requesting the extension  
 272 before the expiration date, can show that he/she is not responsible for  
 273 the delay in issuing the certificate of concurrency and has acted in good  
 274 faith to obtain a certificate; and

275 (b) If the property is serviced by a noncity managed utility, then the  
 276 applicant must submit a letter from the utility approving the extension  
 277 before the expiration date.

278 ~~(12)~~ Once the associated development permit or building permit is  
 279 approved, the public works department will issue a final certificate of  
 280 concurrency as set forth in Chapter 25.12 of this title.

281 ~~(13)~~ The public works department shall be responsible for  
 282 accumulating the impacts created by each application and removing any

283 impacts from the city's concurrency records for an expired concurrency  
284 test notice, an expired development permit or building permit, a  
285 discontinued certificate of concurrency, or other action resulting in an  
286 applicant no longer causing impacts which have been accounted for in  
287 the city records.

288 ~~(1412)~~ The public works department shall be responsible to coordinate  
289 with applicable non-city managed utility districts for maintaining and  
290 monitoring of available and planned capacity for non-city managed  
291 utilities.

292  
293 Section 13. KMC Section 25.10.030 is amended to read as  
294 follows:

295  
296 25.10.030 Test.

297 Development applications that would result in a reduction of level of  
298 service below the established level of service standard shall not be  
299 approved. For potable water and sanitary sewer, only available capacity  
300 will be used in conducting the concurrency test. For roads, available and  
301 planned capacity will be used in conducting the concurrency test.

302 (1) For sewer and water, if the capacity of the concurrency facilities  
303 with the development application is equal to or better than the capacity  
304 required to maintain the established level of service standard, then the  
305 concurrency test is passed.

306 (2) For roads, the concurrency test consists of ~~two steps~~ comparing  
307 the existing person trip capacity to the estimated person trip generation  
308 of the development being tested. The test is passed if the existing  
309 capacity is greater than the estimated person trip generation.

310 ~~(A) The comparison of average volume/capacity ratio for the impacted~~  
311 ~~subarea(s) to the applicable level of service standard; and~~

312 ~~(B) The comparison of the volume/capacity ratio at each appropriate~~  
313 ~~intersection to the applicable level of service standard adopted in the~~  
314 ~~comprehensive plan. The traffic test is passed if both comparisons meet~~  
315 ~~the standard.~~

316 ~~(C) Within the "JFK annexation area," as defined in city of Kirkland~~  
317 ~~Ordinance No. 4229, the concurrency test shall be limited to the analysis~~  
318 ~~set forth in subsection (2)(b) of this section until such time as the city~~  
319 ~~adopts level of service standards for the JFK annexation area.~~

320 (3) If the concurrency test is not passed for water, sewer or roads,  
321 then the applicant may retest for concurrency after doing one or both  
322 of the following:

323 (A) Modify the application to reduce the need for the concurrency  
324 facilities that do not exist. Reduction of need can be through reduction  
325 of the size of the development, reduction of trips generated by original  
326 proposed development, or phasing of the development to match future  
327 concurrency facility construction; or

328 (B) Arrange with the public works department and fund ~~the~~  
329 ~~improvements for the additional capacity, required for the concurrency~~  
330 ~~facilities.~~

331 (4) If the concurrency test is not passed for water, sewer or roads,  
332 then the applicant may request reconsideration of the results of the  
333 concurrency test by the public works director in accordance with the  
334 provisions of Chapter 25.22.  
335

336 Section 14. KMC Section 25.10.050 is amended to read as  
337 follows:  
338

339 25.10.050 Public notice of concurrency test.

340 (1) The public works official shall ~~cause provide~~ notice of issuance of  
341 the concurrency test notice ~~to be given in the same manner and at the~~  
342 ~~same time as the SEPA public notice of Section 24.02.085 of this~~  
343 ~~code and the concurrency test decision on an area of the public City of~~  
344 Kirkland website designated for such notice.

345 (2) The notice shall include the name of the applicant, the city file  
346 number, the parcel number(s), the address ~~if —and—available,~~ a  
347 description of the development and the procedures for filing an appeal.  
348

349 Section 15. KMC Section 25.12.010 is amended to read as  
350 follows:  
351

352 25.12.010 Issuance.

353 A certificate of concurrency shall be issued at the same time a  
354 development permit or building permit is issued; provided, that the  
355 applicant holds a valid concurrency test notice, and pays any fee and/or  
356 ~~performs meets~~ any condition ~~required by the public works department~~  
357 specified on the concurrency test notice. Each building within an  
358 approved phased development shall be issued a certificate of  
359 concurrency.  
360

361 ~~The public works department shall issue certificates of concurrency first~~  
362 ~~for the earliest application reviewed and approved. Subsequent~~  
363 ~~certificates will be issued in the order of review and approval. The~~  
364 ~~purpose of this section is to enable applicants who are ready for~~  
365 ~~approval to receive a certificate of concurrency, even if their application~~  
366 ~~was submitted after an earlier applicant. If an applicant's concurrency~~  
367 ~~test notice expires before a certificate of concurrency is issued, then the~~  
368 ~~assigned impacts for that applicant can be reassigned to another~~  
369 ~~applicant. It is the city's intent to treat concurrency applications on a~~  
370 ~~"first-come first-served" basis and to use this section to avoid the delays~~  
371 ~~in approval of development caused by applicants who are unable to~~  
372 ~~complete the review process as a result of their own action.~~  
373

374 Section 16. KMC Section 25.22.010 is amended to read as  
375 follows:  
376

376 25.22.010 Decisions to be reconsidered.



377 (1) A decision of the public works official to not approve an application  
378 for concurrency may be reconsidered for the following reasons:

- 379 (a) A technical error was committed;  
380 (b) Alternative data or a mitigation plan provided by the applicant was  
381 rejected; and  
382 (c) Unwarranted delay in review allowed capacity to be given to  
383 another applicant.

384 (2) Such decision may not be reconsidered for the following reasons:

- 385 (a) The methodology of the concurrency test in the comprehensive  
386 plan and in this title is incorrect;  
387 (b) The adopted level of service established in the comprehensive plan  
388 is incorrect; and  
389 (c) A provision of this title is incorrect or invalid.

390

391 Section 17. KMC Section 25.23.030 is amended to read as  
392 follows:

393

394 25.23.030 Filing of appeal.

395 ~~(1) The appeal must be filed with the public works official within~~  
396 ~~fourteen calendar days of the date of issuance of a determination of~~  
397 ~~nonsignificance (DNS) for the development or within seven calendar~~  
398 ~~days of the date of publication of a determination of significance (DS)~~  
399 ~~for the development under Title 24 of this code. The appeal must be filed~~  
400 ~~with the public works official within fourteen calendar days of the~~  
401 ~~issuance of a concurrency test notice.~~

402 (2) The appeal must be in writing and designated as a "notice of  
403 appeal," and must contain a brief and concise statement of the matter  
404 being appealed, the specific components or aspects of the decision that  
405 are being appealed, the basic rationale or contentions on appeal, and a  
406 statement demonstrating standing to appeal. The appeal may also  
407 contain whatever supplemental information the appellant wishes to  
408 include.

409 (3) The burden of proof shall be on the applicant or agent to show  
410 that the decision of the public works official was in error.

411 ~~(34)~~ The notice of appeal shall be accompanied by the appeal and fee  
412 established in Chapter 5.74 of the code.

413

414 Section 18. If any provision of this ordinance or its application  
415 to any person or circumstance is held invalid, the remainder of the  
416 ordinance or the application of the provision to other persons or  
417 circumstances is not affected.

418

419 Section 19. This ordinance shall be in force and effect five days  
420 from and after its passage by the Kirkland City Council and publication  
421 pursuant to Section 1.08.017, Kirkland Municipal Code in the summary  
422 form attached to the original of this ordinance and by this reference  
423 approved by the City Council.

424  
425  
426  
427

Passed by majority vote of the Kirkland City Council in open meeting this 8th day of December, 2015.

Signed in authentication thereof this 8th day of December, 2015.

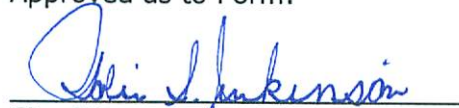
  
MAYOR

Attest:

  
City Clerk

Approved as to Form:

Publication Date: December 14, 2015

  
City Attorney

PUBLICATION SUMMARY  
OF ORDINANCE O-4509

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO TRANSPORTATION CONCURRENCY AND AMENDING TITLE 25 OF THE KIRKLAND MUNICIPAL CODE, "CONCURRENCY MANAGEMENT."

SECTION 1. Amends Kirkland Municipal Code (KMC) Section 25.06.020 relating to concurrency by amending the definition of "accounted traffic impact" to mean "accounted transportation impact."

SECTION 2. Amends KMC Section 25.06.060 changing the definition of "building permit" from permits issued under the "Uniform Building Code" to permits issued under the "International Building Code."

SECTION 3. Amends KMC Section 25.06.070 changing the reference from "traffic impact" to "accounted transportation impact."

SECTION 4. Amends KMC Section 25.06.080 changing the reference from roads "planned in the comprehensive plan" to roads "funded in the Transportation Capital Facilities Plan."

SECTION 5. Amends KMC Section 25.06.100 to change "impact on level of service" to "amount of estimated person trip generation to the amount of person trips available to accommodate new growth."

SECTION 6. Amends KMC Section 25.06.110 changing the meaning of "development permit" to include design review.

SECTION 7. Adds a new KMC Section 25.06.145 defining "person trip."

SECTION 8. Amends KMC Section 25.06.150 changing the meaning of "planned capacity" to include "transportation facilities for pedestrians, bicycles, transit and motor vehicles."

SECTION 9. Adds a new KMC Section 25.06.165 defining "roads."

SECTION 10. Amends KMC Section 25.08.010 limiting the application of certain categorical SEPA exemptions in KMC Chapter 24.02 where construction is estimated to result in 40 or more person trips.

SECTION 11. Deletes KMC Section 25.08.020.

SECTION 12. Amends KMC Section 25.10.020 related to concurrency procedures.

SECTION 13. Amends KMC Section 25.10.030 related to concurrency tests.

SECTION 14. Amends KMC Section 25.10.050 related to public notice of concurrency tests.

SECTION 15. Amends KMC Section 25.12.010 related to the issuance of the certificate of concurrency.

SECTION 16. Amends KMC Section 25.22.010 related to decisions to be reconsidered to make minor edits.

SECTION 17. Amends KMC Section 25.23.030 related to filing of an appeal.

SECTION 18. Provides a severability clause for the ordinance.

SECTION 19. Authorizes publication of the ordinance by summary, which summary is approved by the City Council pursuant to Section 1.08.017 Kirkland Municipal Code and establishes the effective date as five days after publication of summary.

The full text of this Ordinance will be mailed without charge to any person upon request made to the City Clerk for the City of Kirkland. The Ordinance was passed by the Kirkland City Council at its meeting on the 8th day of December, 2015.

I certify that the foregoing is a summary of Ordinance O-4509 approved by the Kirkland City Council for summary publication.

  
City Clerk