
Transportation Demand Management Case Studies and Regulations

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Prepared by
Metropolitan Area Planning Council
60 Temple Place, 6th Floor
Boston, Massachusetts 02111
Tel (617) 451-2770
www.mapc.org

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Acknowledgements

Metropolitan Area Planning Council Project Team:

Project Manager and Primary Author: Alison Felix, AICP, Transportation Planner

Eric Bourassa, Transportation Director

Eric Halvorsen, AICP, Assistant Director of Transportation

Research and Mapping: William Freas, Transportation Intern

Mapping: Eliza Wallace, PhD, GIS Analyst

Legal: Gregory Miao, Municipal Services Specialist

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Introduction

This report is intended to serve as a guide for municipalities looking to amend existing or adopt new bylaws or zoning ordinances that advance Transportation Demand Management (TDM) measures as part of the review and approval of development projects.

Case studies highlighting TDM measures already implemented by municipalities, both in Massachusetts and nationwide, are identified in this report. The examples include a variety of approaches ranging from setting specific trip reduction targets, providing a menu of TDM alternatives to consider for implementation, and to applying various parking measures. The bylaw or zoning ordinance language of each identified case study and measure is available in the appendices for further reference.

TDM policies and programs taking place at the state level both in Massachusetts and nationwide are summarized and a model bylaw outlining a range of TDM measures is provided. While the TDM policies, programs, measures included in this report provide a strong framework, it is critical that municipalities looking to establish TDM programs develop bylaw or zoning ordinance language that meets their particular goals. This report is intended to provide a variety of examples that can help municipalities craft language to meet these goals.

What is Transportation Demand Management (TDM)?

TDM refers to a package of policies and programs that are designed to reduce drive-alone trips and enable the transportation system to function more effectively and efficiently through measures that shift passengers from single-occupancy vehicle (SOV) travel. Specifically, TDM encourages using alternative travel modes (bicycling, walking, and transit); promoting alternatives to SOV travel (teleworking, ridesharing including carpooling and vanpooling); increasing the number of passengers in vehicles (carpooling and vanpooling); and eliminating the need for some trips altogether (compressed work week).

Reducing traffic congestion, improving air quality, decreasing energy consumption, and sometimes saving time and money for travelers, businesses and municipalities are all benefits of implementing TDM measures. These measures underlie transit-oriented development, complete streets programs, as well as livability and sustainability initiatives and can be applied in support of a variety of development patterns, ranging from urban to rural. TDM measures should be followed when designing development projects so that alternatives to SOV travel are naturally encouraged. Municipalities that successfully alleviate traffic impacts will become more desirable places to live, work, visit, and do business.

A range of fundamental TDM measures are outlined in Table 1. It is important to note that there is not a one size fits all solution for municipalities to encourage alternatives to SOV travel. Rather, the decision to implement specific TDM measures should depend on the municipality, particular sites, and specific traffic congestion issues.

Table 1: Range of TDM Measures

Parking Management

- Parking Cash-Out
- Parking Pricing – Charge Market Rate/Charge for On-Street Parking
- Preferential Carpool/Vanpool Parking
- Shared Parking

Pedestrian and Bicycling Improvements and Facilities

- Secure and safe bicycle parking (short and long term) and storage (bicycle racks and stalls)
- Showers and lockers for bicyclists
- Bicycle sharing
- Connectivity between adjacent sites and paths
- Infrastructure improvements (traffic calming, bicycle lanes)

Site Design/Land Use

- Require new buildings to locate their parking behind buildings, away from the street
- Limit driveway curb cuts
- Require densifications/mixed-use elements for new developments
- Promote location efficient residential and commercial development (proximate and oriented to transit services, has good walking and bicycling conditions, and includes infill)

Employer-Based

- Subsidize Transit
- Flexible employee work schedules (compressed work week, flexible arrival/departure times)
- Teleworking
- Ride-sharing services (guaranteed ride home, ride-matching)
- Education (inform employees of options)
- Provide incentives and rewards programs (offer transit passes pre-tax or subsidize their purchase)

Public Transit

- Coordinate with transportation providers to bring service to the project site
- Employer-provided shuttle bus services

Transportation Management Association (TMA) membership

Car Sharing

Provisions for bus shelters and information kiosks

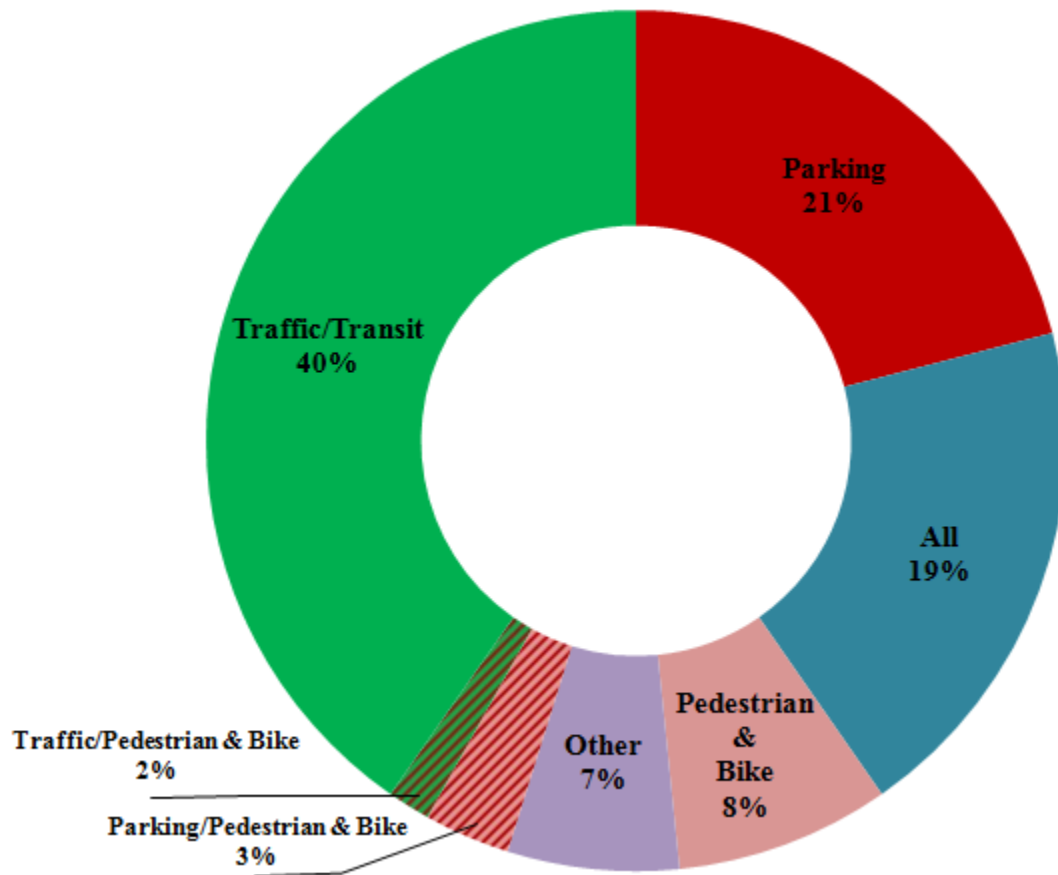
Active marketing and promotion of transportation options

TDM in the MAPC Region

MAPC reviewed all the bylaws and zoning ordinances of the 101 cities and towns in the MAPC region to determine whether, and to what extent, they include TDM measures. Key observations are as follows and are also depicted in Figures 1-3.

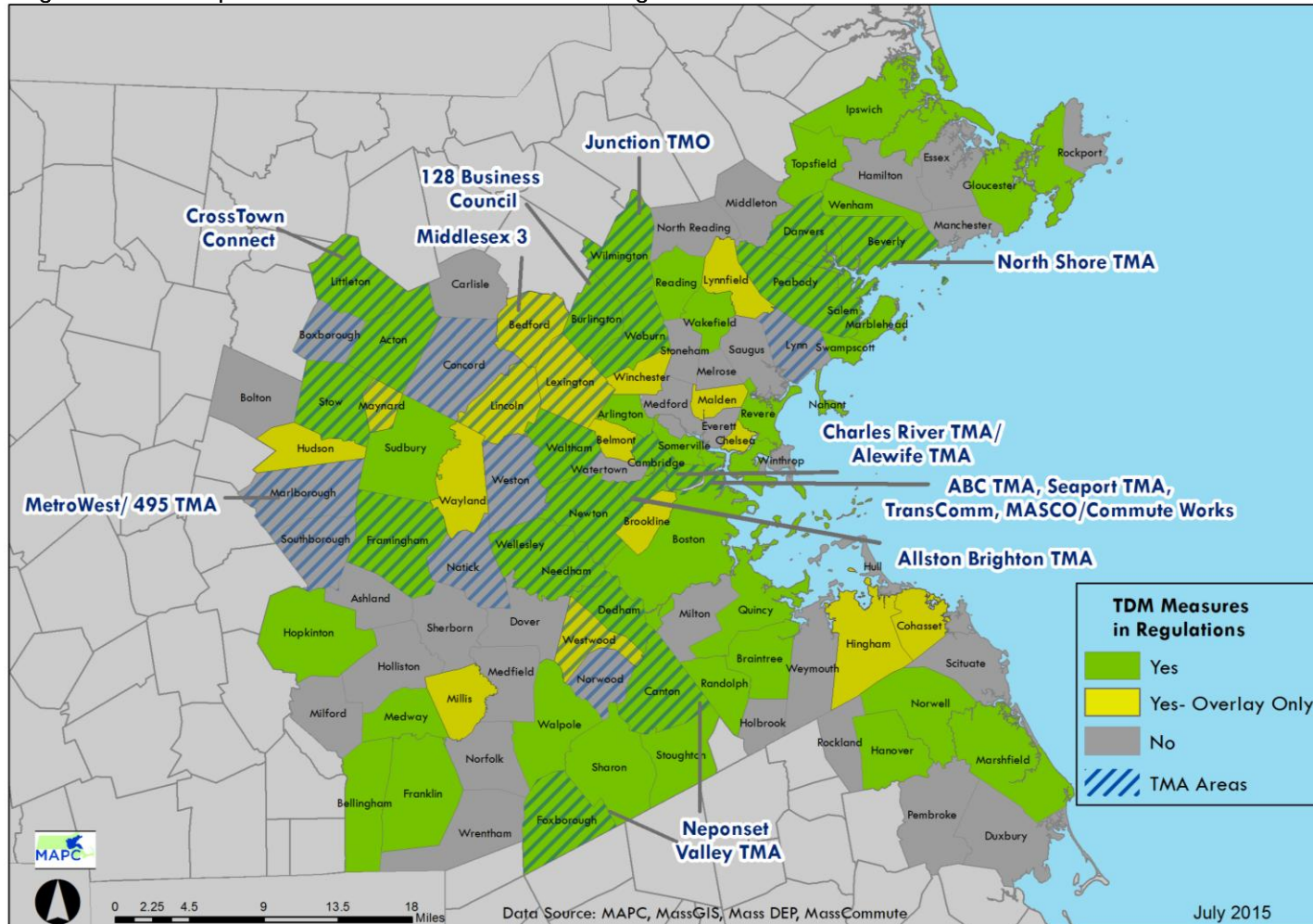
- 61 percent of MAPC's municipalities contain TDM measures in their bylaws or ordinances to varying degrees of detail. These municipalities are distributed evenly throughout the MAPC region.
- 26 percent of MAPC's municipalities that contain TDM measures in their bylaws or ordinances apply as overlay districts, not the municipality as a whole.
- 59 percent of MAPC's municipalities that do have TDM measures in their bylaws and ordinances specifically address TDM pertaining to traffic/transit. At 40 percent, TDM measures related to parking are the next most frequent.
- 19 percent of MAPC's municipalities have TDM measures in their bylaws or ordinances include each type of TDM measure category (pedestrian/bicycle, parking, traffic/transit, and other). These municipalities are primarily concentrated in the Inner Core.
- Transportation Management Associations (TMAs) have service areas in 39 percent of MAPC's municipalities that contain TDM measures in their bylaws and ordinances.

Figure 1: Types of TDM Regulations



While municipalities in the MAPC region do include TDM measures in their bylaws or zoning ordinances, there is considerable opportunity for various TDM measures to be more widely adopted. Municipalities that implement TDM measures on a case-by-case basis as part of a Special or Conditional Permit, Condition of Approval, or site plan review process were not included in this mapping exercise.

Figure 2: Municipalities with TDM Measures in Regulations



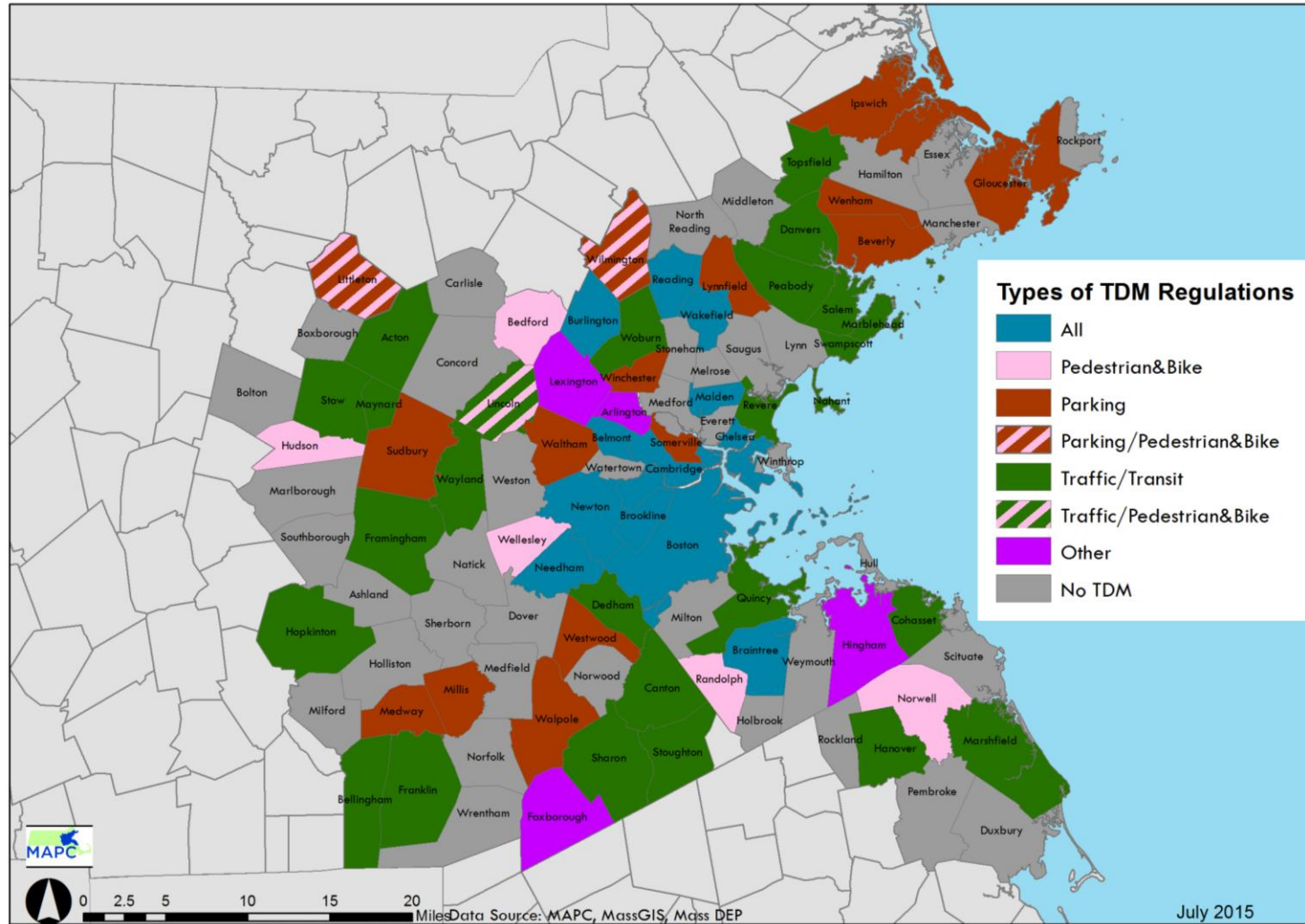
Municipalities that implement TDM measures on a case-by-case basis as part of a Special or Conditional Permit, Condition of Approval, or site plan review were not mapped.

CrossTown Connect also includes Westford.

The JunctionTMO also includes Andover and Tewksbury.

Middlesex 3 Coalition also includes Billerica, Chelmsford, Lowell, Tewksbury, Tyngsborough, and Westford

Figure 3: Types of TDM Regulations



Municipalities that implement TDM measures on a case-by-case basis as part of a Special or Conditional Permit, Condition of Approval, or site plan review were not mapped.

All – TDM measures including Pedestrian/Bike, Parking, and Traffic/Transit.

Other – TDM measures that do not fit the above categories (e.g., joining a TMA or requiring a mitigation fee).

Recommendations

Municipalities are faced with the challenges of balancing the demands of being business-friendly, attracting new development, managing the demands on the transportation network, as well as working with developers to develop TDM programs. In the long run, the successful implementation of TDM policies and programs can have a significant benefit on the efficiency of the transportation network and economy of an area. In order to achieve maximum success, TDM policies and programs need to be carefully planned, implemented, and monitored. Following a comprehensive review of local and national case studies, MAPC identified key trends that are consistently present with successful TDM programs. To better inform the report's recommendations, MAPC spoke with several municipalities and TMAs to get a better understanding of the successes, challenges, and history of implementing TDM policies and measures¹. Specific examples of each of the key trends identified below are identified throughout the report.

Partnerships

- Implement TDM programs by coordinating and collaborating with public agencies, multiple employers, or through public-private partnerships (e.g., jointly evaluate TDM programs and allocate funding).
- Develop working relationships among municipalities, state agencies, TMAs and the private sector to achieve TDM objectives. This is essential and should start as early as possible (e.g., cooperatively establish policies).
- Negotiate reasonable and equitable mitigation agreements with the private sector (e.g., building and occupancy permits will only be issued by a municipality after a TDM plan has been approved).
- Develop TDM programs that are simple and straightforward.

Collaboration

- Require employers and municipalities to become TMA members.
- If a new development is within a TMA's service area, membership and active collaboration should be required. If the development is not within a TMA service area, then participation in MassRIDES² and the area Regional Transit Authority³ (RTA) should be required.

¹ The names and dates of those interviewed are included in the Resources section.

² MassRIDES is the Commonwealth's travel options service.

³ RTAs provide fixed route and paratransit service across the state. Six RTAs service the MAPC region: Brockton Area Transit Authority (BAT), Cape Ann Transportation Authority (CATA), Greater Attleboro Taunton Regional Transit Authority (GATRA), Lowell Regional Transit Authority (LRTA), MetroWest Regional Transit Authority (MWRTA), and Montachusett Regional Transit Authority (MRTA).

Funding

- Pool resources and obtain funding from multiple sources (both private and public) to ensure TDM program success.
- Ensure that the private sector is making significant funding contributions (e.g., require mitigation requirements and/or monetary contribution be based on significance of the transportation impacts or total cost of the development project).
- Seek additional funding from local, state, and/or federal transportation sources. For example, prioritize or dedicate a portion of CMAQ (Congestion Mitigation and Air Quality Improvement) funds for TDM programs.
- Ensure TDM programs are cost effective to the implementing body and to those who benefit from the program itself (e.g., through monitoring, reporting and enforcement).

Implementation and Monitoring

- Develop clear and succinct municipal bylaw language that includes very specific requirements.
- Make incremental changes to bylaws. Adopting a series of small and attainable amendments will allow for a gradual transition to implement TDM measures rather than the potential of creating resistance.
- Strive to implement a concise list of targeted and measurable TDM goals and requirements over a designated period of time (e.g., mode share goals, vehicular trips).
- Establish a well-defined process to monitor progress and compliance towards clearly established goals (e.g., vehicular trips) and outcomes (e.g., annual report or survey).
- Fund a transportation coordinator position to ensure commitments to TDM measures are implemented. This could be a standalone position, or folded into a current employee's job duty if possible.
- Include precise language to ensure that there is a clear transfer of responsibility in the event of a change in ownership or tenant turnover (e.g., incorporate in deed, link to an occupancy permit).

Enforcement

- Establish policies for non-achievement or non-compliance of program goals or failure to implement a TDM program. For example, a municipality can hold off on issuing new permits (e.g., occupancy permit) or put a lien on property in the amount of the dues which are owed by the developer. It is critical that municipalities and developers establish cooperative relationships – enforcement should be carried out as a final recourse.

Incentives

- Offer developers and employers a range of services (e.g., bicycle parking and amenities, commuter subsidies, fees in-lieu of parking, car sharing, and reduced parking requirements for (re)development sites within walking distance from frequent transit) when developing a TDM program. A limited range of services may not be appealing to all employers, developers, or users of the program.
- Establish incentives for employers who meet TDM goals or who join a TMA (e.g., waiving fees for annual reporting to a municipality or allowing costs associated with a TDM program to be tax deductible).
- By working with TMAs, employers should establish incentives for employees (e.g., bicycling/walking competitions, prepaid Charlie Cards, subsidized MBTA passes, subsidized ridership on area RTAs, and gift cards).

Education

- Educate municipal officials, residents, employers, and employees about the benefits of TDM measures (e.g. through the area TMA).

In many cases, municipalities include TDM regulations on a case-by-basis as part of a Special or Conditional Permit, Condition of Approval, or site plan review process. As stated earlier, of the municipalities that included TDM regulations 26 percent applied only to overlay districts, not the municipality as a whole. MAPC recommends that municipalities adopt new or update existing TDM regulations as part of an overall strategy rather than in a piecemeal manner. Once TDM regulations are adopted, it is critical that there be a strong ongoing review process in place to ensure their effectiveness.

State Level TDM Policies and Programs

TDM is addressed on the state level as part of the Massachusetts Environmental Policy Act (MEPA) review process, the Massachusetts Rideshare Regulation, and with Transportation Management Associations (TMAs). There is also pending state legislation intended to further advance TDM policies and programs. To ensure the success of TDM policies and programs, it is important that the state, TMAs, and municipalities convey a clear and consistent message. An explanation of each of these state-level programs is provided below.

Massachusetts Environmental Policy Act (MEPA)

Established as state law in the late 1970s, MEPA is a uniform system of environmental impact review with the intent to reduce the potential for harm to the environment from certain development and transportation projects. The intent of MEPA review is to inform project applicants and state agencies of potential adverse environmental impacts while a proposal is still in the planning stages. The developer and all relevant state agencies are required to identify any aspects of a proposed project that may necessitate additional description or analysis prior to the issuance of a certificate and Section 61 Findings by the

Executive Office of Energy and Environmental Affairs. MEPA also requires developing enforceable mitigation commitments, which will become permit conditions for the project.

Section 61 Findings

Section 61 Findings require state agencies and authorities to review, evaluate and determine the impacts on the natural environment of all projects or activities requiring permits issued by the state⁴. Findings are issued describing the environmental impacts. Although Section 61 Findings provide a 'template' for permit conditions, participating state agencies are responsible for issuing permits, not MEPA. For example, the Massachusetts Department of Transportation (MassDOT) issues Highway Access Permits.

Transportation Impact Assessment (TIA) Guidelines

Adopted by MassDOT in 2014, the primary purpose of the Transportation Impact Assessment (TIA) Guidelines are for the preparation of transportation analysis components of development project filings under MEPA. Through the MEPA review process, MassDOT negotiates with developers to establish an equitable mitigation package for each project; which includes TDM. When addressing TIA Guidelines, a developer should include specific, measurable TDM commitments. In turn, these commitments will be tracked and monitored through the project's Transportation Monitoring Program. In addition to evaluating the adequacy of the transportation mitigation, the monitoring program also addresses the effectiveness of the TDM program.

The TIA Guidelines emphasize transportation-efficient development and enhancement of transit, bicycle, and pedestrian facilities, as well as foster implementation of on-going, effective TDM programs. A TIA needs to identify existing TDM options, relevant programs and providers, and potential solutions in the study area. Detailed TDM program information is presented in Section 4.III. of the TIA Guidelines as well as monitoring . Municipalities should align their TDM policies and programs with those outlined in the TIA Guidelines and ensure that MEPA projects with TDM commitments are implemented.

Appendix A MassDOT's Transportation Impact Assessment Guidelines

State Policies that Support TDM Policies and Programs

MassDOT and the Commonwealth are advancing several policy initiatives that seek to emphasize and support a balanced approach to providing a multi-modal transportation network. This balanced approach directly supports TDM policies and programs since there is a central focus on increasing the number of trips taken by walking, bicycling, and public transit modes. Summarized in chronological order, these statewide policy directives include:

[Healthy Transportation Directive](#)

In 2013, MassDOT announced a Healthy Transportation Policy Directive which requires all state transportation projects to increase walking, bicycling, and public transit options. This Directive is intended to promote multimodal access and will facilitate the construction of a healthy and sustainable transportation system.

⁴ M.G.L., chapter 30, section 61.

Together, these initiatives seek to improve transportation services for Massachusetts residents while advancing public health, safety, and the natural environment. All three initiatives are consistent with MetroFuture, MAPC's 30-year plan for the region, which supports a vision of smart growth and regional collaboration through the promotion of efficient transportation systems and conservation of land and natural resources.

[Mode Shift Goal](#)

In 2012, MassDOT established a Mode Shift Goal which calls for tripling the share of travel in Massachusetts by walking, bicycling, and public transit by 2030. The Mode Shift Goal will promote an enhanced quality of life by improving the environment and maintaining capacity on the highway network. By maintaining capacity on the highway network, other travel options will absorb travel demand that would otherwise contribute to highway congestion and, in turn, hinder the Commonwealth's potential for economic growth. In addition, positive public health outcomes can be achieved by providing healthier transportation options.

[GreenDOT](#)

In 2010, MassDOT launched GreenDOT, a comprehensive environmental responsibility and sustainability initiative intended to "green" the Commonwealth's transportation system. GreenDOT is driven by three primary goals:

- Reduce greenhouse gas (GHG) emissions;
- Promote the healthy transportation options of walking, bicycling, and public transit; and
- Support smart growth development.

[Healthy Transportation Compact](#)

The Healthy Transportation Compact is an inter-agency initiative designed to facilitate transportation decisions that balance the needs of all transportation users, expand mobility, improve public health, support a cleaner environment, and create stronger communities.

Components the 2009 transportation reform law charges the Compact with include:

- Promoting inter-agency cooperation to implement state and federal policies and programs that support healthy transportation;
- Increasing bicycle and pedestrian travel;
- Working with the Massachusetts Bicycle and Pedestrian Advisory Board to effectively implement a policy of complete streets for all users, consistent with the current edition of the Project Development and Design Guide; and
- Initiating public-private partnerships that support healthy transportation with private and nonprofit institutions.

[Global Warming Solutions Act](#)

Adopted in 2008, the Global Warming Solutions Act requires a reduction of greenhouse emissions in Massachusetts to 10-25% below 1990 levels by 2020 and 80% below 1990 levels by 2050. In order to accomplish this goal, it will be necessary to increase the use of public transit and other non-motorized transportation alternatives.

[MassDOT Project Development and Design Guidebook](#)

Released in 2006, the Project Development and Design Guidebook takes a flexible and accommodating approach to the construction and design of roadways in Massachusetts. By integrating multi-modal planning and design into every chapter, the Guidebook strives to support a transportation system providing seamless, functional and safe access for all users. In addition, this Guidebook provides direction to the design of Complete Streets. The Guidebook mainstreams non-motorized planning into the project development process and ensures that the needs of non-motorized users remain integral to project planning and design. The needs of, and the methods to accommodate non-motorized modes of transportation are not segregated into their own sections but are addressed in every chapter of the Guidebook.

Massachusetts Rideshare Regulation

Currently administered by the Massachusetts Department of Environmental Protection (MA DEP), the Massachusetts Rideshare Regulation is an air quality initiative which requires the reduction of single-occupant commuter vehicle use. The Rideshare Regulation requires employers (businesses, academic institutions, and healthcare facilities) exceeding applicable employee thresholds to develop plans and set goals to reduce commuter drive alone trips by 25 percent from a baseline established through an employee survey. Additionally, any employers with 250 or more applicable commuters that are subject to the Massachusetts Air Operating Permit Program need to comply with this regulation. Compliance with the 25 percent drive alone commute trip reduction goal depends on the voluntary efforts of employees and there are no penalties if this goal is not accomplished.

The Rideshare Regulation was initially designed for all employers with over 250 applicable employees. However, due to funding and staff constraints at MA DEP, only employers with 1,000 or more applicable employees and employers with 250 or more applicable commuters that are subject to the Massachusetts Air Operating Permit Program are being asked to comply.

According to a report issued by A Better City in 2014⁵, 157 companies are presently reporting to MA DEP. Of these companies, 21 are not in compliance. Although MA DEP has estimated that, based on 2011 data, the Rideshare Regulation has resulted in the removal of 44,000 vehicles from Massachusetts roads, a comprehensive evaluation of the regulation's effectiveness has not taken place. This report also notes that MA DEP has nominally reported on the Rideshare Regulation's the level of success over the past two decades. In 2010, MassCommute conducted their own survey of employers required to comply with the Rideshare Regulation. Based on the survey, MassCommute concluded that the Rideshare Regulation's surveying and reporting process had no impact on employer efforts to reduce drive alone trips.

In 2013, as part of a formal regulatory review process to streamline reporting and data collection agencywide, MA DEP evaluated whether the Rideshare Regulation's current incentives and TDM measures were still pertinent and considered other approaches that

⁵ Establishing an Effective Commute Trip Reduction Policy in Massachusetts, A Better City, August 2014.

employers could implement to reduce emissions. One outcome from this review process is an agency desire to have online reporting along with a potential administrative fee.

MassCommute submitted their own proposal as part of this regulatory review process. A central recommendation of MassCommute's proposal is to strengthen the Rideshare Regulation by streamlining the MA DEP reporting process and requiring a full survey and report on attaining the drive alone trip reduction goal every five years instead of two. A streamlined reporting process would enable MA DEP to lower the threshold for employers from 1,000 employees. Another key recommendation from MassCommute is to allow employers to take credit for programs their employees participate in through TMAs and MassRides. Incorporating participation in TMAs and with MassRides is projected to increase the effectiveness and flexibility of the Rideshare Regulation. MassCommute's proposals are currently under review by MA DEP.

Appendix B Massachusetts Rideshare Regulation – Reduction of Single Occupant Commuter Vehicle Use - Section 7.16 of 310 CMR 7.00 – Air Pollution Control Regulations

Transportation Management Associations (TMAs)

TMAs are independent organizations formed and governed by their members who may include employers, developers, and property owners/managers in partnership with government entities. They work with stakeholders to establish policies, programs and services to address local transportation needs. TMAs realize their potential to reduce traffic congestion, improve air quality, and support economic development in their service areas through TDM strategies such as ridematching. TMAs advocate on behalf of their members for multimodal transportation system improvements and enhancements that improve access and mobility. TMAs are established within defined geographic areas to address the transportation needs of their members. As public-private partnerships, TMAs are funded through a combination of private sector funding (membership dues, fees, and grants) leveraged by public funding.

Model Bylaw

The American Planning Association's ***Growing Smart Legislative Guidebook: Model Statutes for Planning and the Management of Change***, contains a model bylaw addressing a full range of TDM measures and serves as a guide and framework for municipalities who want to adopt their own TDM bylaw. It is important to note that there is no single 'model' that can be adopted without some modifications. Municipalities should first examine their current development review and mitigation processes and adopt components of the model bylaw as appropriate. Another recommended approach is for municipalities to review similar Massachusetts bylaws and ordinances.

Appendix C American Planning Association's Model Bylaw

Massachusetts – Municipal Case Studies & Specific TDM Measures

This section summarizes case studies of TDM programs and measures currently implemented in municipalities across Massachusetts. The case studies include examples of parking and transportation management, developer responsibility for transportation mitigation, transportation mitigation funds, TDM policies, and required TDM measures in traffic studies. Specific TDM measures address bicycle parking and amenities, density bonuses, design standards, parking, required TMA membership, and participation in TDM programs.

It should be noted that while the City of Boston does implement TDM programs and measures, this report does not reference specific case studies. This is primarily due to the fact that Boston's zoning code is complex and comprised of numerous neighborhood and downtown districts. Additionally, if there is a development project that may be so large or unique that it cannot be reasonably approved using the existing zoning code, it then undergoes an Article 80 Project Review to determine density and use guidelines. TDM programs and measures are determined on a project-by-project basis as part of the Article 80 Project Review process.

Municipalities can refer to the case studies and TDM measures as a starting point for discussion to develop bylaws that best fit their own needs. Regardless of the TDM policies and programs and specific TDM measures a municipality may choose to implement, it is important that they be part of a cohesive vision for managing change that may result from new development.

It is worth mentioning that many of the following case studies and TDM measures are not implemented by-right. Rather, they are part of a municipality's Special Permit, Condition of Approval, or site plan review process.

Municipal Case Studies

Parking and Transportation Demand Ordinance - Cambridge

Introduced in 1998, the City of Cambridge has an ordinance linking parking and TDM. The Parking and Transportation Demand Management (PTDM) ordinance requires developers to reduce the drive alone rate for their development to 10 percent below the average rate for the census tract in which the development is located.

The PTDM ordinance requires all non-residential private developments to submit a full TDM plan with an annual review of their mode split if they add any new parking spaces greater than or equal to 5 spaces.⁶ If the total number of spaces is between 5 and 19 the project is considered "small" and if the total number of spaces is 20 or greater the project is

⁶ Residential developments are not covered under the ordinance. Instead, developers must conduct a traffic study for every residential structure over 50,000 square feet under a process covered by special permit.

considered "large." Large projects are required to reserve 10 percent of parking as High Occupancy Vehicle (HOV) preferentially located spaces and construct bicycle parking equal to 10 percent of the parking supply. "Small" projects are required to implement at least three TDM measures.

A PTDM plan must commit to a certain maximum percent of trips to the site that will be made by people driving alone and is required to contain a comprehensive set of TDM measures. TDM commitments in a PTDM plan can include: transit pass subsidies, market-rate parking fees, shuttle buses, bicycle enhancements, guaranteed ride home, ridematching, bus shelters, and provision of an on-site TDM coordinator. All PTDM projects are required to join the local TMA. Only after a PTDM plan has been submitted and approved by the City can the developer or property owner obtain city permits (e.g., building permit, occupancy permit).

The PTDM ordinance has strict monitoring and reporting provisions. Monitoring of "large" projects includes employee and/or patron mode split surveys, biannual counts of parking occupancy and vehicular trips to and from the site, and status of the TDM measures. There is no evaluation requirement for "small" projects.

If single-occupant auto trip reductions are not being met, the City has the ability to enforce the requirements by either closing the parking facility or charging \$10/space/day until the single-occupant auto share meets the targets. In a worst case scenario a developer's parking facilities can be shut down by the City. The penalties for noncompliance serve as a strong incentive for developers or property owners to ensure that they are meeting their vehicle trip reduction targets.

Implementation of the PTDM ordinance has been credited with smaller parking facilities, less traffic generated by the regulated projects, improved air quality, and increased use of bicycling and public transit.

Appendix D Cambridge's Municipal Code - Parking and Transportation Demand Management Planning, Parking Space Registration - Chapter 10.18

Mitigation Funds – Marshfield, Waltham, Woburn

Some municipalities require a monetary contribution from developers to mitigate or offset a development's transportation impacts. While there are differences in what triggers a transportation impact, the revenue can be allocated towards advancing TDM measures. While various methods and accounting systems exist, the majority of mitigation funds in Massachusetts are executed as part of the special permit process and as one-time payments⁷. It is important to note that until the legislature explicitly authorizes the creation

⁷ Municipalities in Massachusetts have referenced the authority of M.G.L. Chapter 40A, Section 9 to require mitigation when creating mitigation funds. There is no specific statutory mechanism for establishing them because there is no statutory authorization for charging mitigation fees. The legality of mitigation fees was established by the judiciary which has found that municipalities have the right to establish such fees pursuant to their home rule/police powers granted by the Massachusetts constitution. For further information, refer to *Morton v. Town of*

of mitigation funds or until there is a court ruling based off of a challenge to an existing fund, the legal viability of establishing mitigation funds is not yet fully settled⁸.

If a municipality establishes a mitigation fund, expenditures need to directly relate to the impact created by the development to which it applies. Developers cannot be required to pay for existing deficiencies unless they are increased by the new development. If a municipal bylaw or ordinance is modified to include a mitigation fund, clear and succinct language should be included that:

- Specifies the purpose of creating the mitigation fund.
- Specifies the scope of what the mitigation funds will be spent on.
- Establishes a clear and proximate link between the impact of the development on the transportation network and how the mitigation funding will be used to remedy that impact.
- Develops concise and targeted TDM goals and requirements.
- Establishes a clear and well-defined process to monitor progress and compliance toward established goals (e.g., annual report or survey).
- Specifies a timeframe for the use of mitigation revenue and includes a clause for returning unspent fees.
- Holds the revenue in a specifically identified account that is monitored and reported on.
- Ensures a clear transfer of responsibility in the event of a change in ownership (i.e.; incorporate in deed, link to an occupancy permit).

An Act Promoting the Planning and Development of Sustainable Communities, legislation filed in January 2015 for the 2015-2016 session, is a draft bill supported by MAPC which proposes to update planning and zoning laws in Massachusetts in order to encourage new jobs and housing, strong community planning and public health, and natural resource protection. The draft bill takes a balanced approach that introduces more certainty and predictability for developers and property owners, while also granting cities and towns the tools necessary to shape the future of their communities. This proposed bill offers options to communities to enhance their local regulations by providing them with explicit authority to

Hanover, 43 Mass. App. Ct. 197, 201 (1997) (upholding impact fee for water main connections) and *Town of Winthrop v. Housing Auth.*, 27 Mass. App. Ct., 645,647 (1989) (upholding impact fee for common sewer connections).

⁸ According to the Attorney General (AG), revolving funds are authorized pursuant to G.L. c. 44 § 53E ½. In accordance with this law, revolving funds are required to be established and renewed annually by Town Meeting vote. Each town meeting has the power to decide whether or not to authorize a revolving fund for the upcoming fiscal year and, if so, what particular receipts will be credited to the fund and how the funds may be spent. For further information, refer to AG decision – Hanover Annual Town Meeting of May 5, 2014 – Case #7201.

implement new zoning methods and permitting processes. This proposed legislation specifically advances the implementation of TDM measures in two areas:

Development Impact Fees

Establish a clear and predictable process for assessing impact fees to cover eligible impacts such as traffic, stormwater, and water supply.

Planning Ahead for Growth Act

Grants additional tools and incentives to communities that choose to “opt-in” by making four specific zoning changes consistent with the state’s Sustainable Development Principles. These benefits include: broader use of impact fees, development agreements, natural resource protection zoning, shorter vesting periods, the ability to regulate the rate of development, and priority for state infrastructure funding.

If adopted, this legislation will enable municipalities to require monetary contributions from developers to mitigate transportation impacts for a municipality as a whole. Municipalities will not be limited to implementing this type of mitigation for individual sites as part of a special permit process.

Mitigation with Traffic Impact Study - Marshfield

During the development of a large industrial park off Route 139 in Marshfield, the Town created a transportation mitigation component to a special permit section of the zoning bylaw to ensure that costs for roadway and intersection improvements in the area were shared by the developer and the Town. Based on the anticipated build-out of the industrial park, the Town identified improvements along Route 139 to accommodate additional vehicle trips. The mitigation funds collected from new development in the industrial park were placed into a fund that was eventually used to pay for the design of the Route 139 improvements. The mitigation requirements and/or dollar value contribution to the mitigation fund is based on the location of the development, significance of the transportation impacts, and negotiations between the Planning Board and the developer.

Within the current zoning bylaw, Article XI Special Permit Conditions, Section 11.10 describes when a traffic impact analysis is required for any new development. The bylaw requires a traffic impact analysis for any development that requires a Special Permit for a principle use within the B-1, B-2, or I-1 zoning districts, or that would have an anticipated average peak hour trip generation in excess of 80 vehicle trip ends, or an average weekday generation in excess of 800 vehicle trip ends.

Generally, the developer is required to make improvements to the transportation network which will minimize traffic and safety impacts, and not degrade the Level of Service (LOS) at nearby intersections below the level of D. If the development will have primary impacts on Route 139, the developer may be required to contribute to a traffic mitigation fund at least equal to \$300.00 per parking space.

Appendix E Marshfield’s Zoning Bylaw – Special Permit Conditions – Traffic Impact Study - Section 11.10

Traffic Safety and Infrastructure Maintenance Fund - Waltham

As part of the filing of an application for a Special Permit, the City of Waltham requires developers to contribute to a Traffic Safety and Infrastructure Maintenance Fund if the proposed development exceeds the allowable Floor Area Ratio (FAR). Section 3.5 of Waltham's Zoning Ordinance contains a detailed FAR table based on land use which differentiates between FAR As of Right and FAR Maximum Allowed by Special Permit.

The rate of contribution to the Traffic Safety and Infrastructure fund is \$3 per square foot of gross floor area of a building whose primary use is for office or retail and \$1 per square foot of gross floor area of a building whose primary use will be for multifamily dwelling units in any residential development of 10 or more units or as a research laboratory or structure or for industrial, manufacturing, warehousing, product and material distribution or similar purposes.

The Traffic Safety and Infrastructure Maintenance Fund can be expended only by the direction and approval of the City Council for the purposes of maintaining and improving the traffic safety infrastructure in the City. Specific types of expenditures include traffic regulation and control, road improvements (including widening), streetlighting, sidewalks and other public services related to the maintenance of traffic safety and safe public utilities, including new construction where needed. The City's Traffic Engineer is responsible for administering the funds.

Appendix F Waltham's Zoning Ordinance - Traffic Safety and Infrastructure Maintenance Fund – Section 3.539

Traffic Safety and Infrastructure Fund - Woburn

The City of Woburn has a zoning code which is intended to ensure that the City's infrastructure is upgraded and maintained in a responsible manner consistent with state and municipal laws and that major developments bear a proportionate share of capital facilities costs.

In lieu of an applicant performing all or part of the mitigation measures which have been made a condition of the Special Permit, the Special Permit Granting Authority may, at its sole discretion, require the applicant to make a contribution to the Traffic Safety and Infrastructure Fund. The contribution to this Fund is equal to 3 percent of the total development costs of the proposed project.

The Traffic and Safety and Infrastructure Fund is kept in a separate account in the City Treasury. Any revenue in this Fund can only be expended at the direction of the City Council with approval from the Mayor. The City Engineer administers the Fund. The applicant is required to pay all contributions into the Fund prior to the issuance of a permanent occupancy permit.

Additionally, the applicant must agree to participate in the area TMA and implement a TDM program. The TDM program specifically includes the assignment of an

Employee Transportation Coordinator to work with the area TMA and employees to encourage ridesharing and use of public transportation.

Appendix G Woburn's Zoning Code - Traffic Safety and Infrastructure Fund - Section 18.7

TDM Plan and Traffic Improvement Fee - Needham

Development in the New England Business Center (NEBC), Highland Commercial (HC)-128, and Mixed-Use (MU-128) Districts that seek a Special Permit to increase the floor area ratio over what is permitted by-right are subject to additional Special Permit Conditions as outlined in Section 6.8, Intensity of Use Special Permit Criteria.

The Planning Board determines the appropriate number of off-street parking spaces required to service the portion of the development which exceeds that permitted by-right. As outlined in Section 6.8.1(d), the Planning Board requires payment of a one-time Traffic Improvement Fee of \$1,500 for each parking space. This fee, which is paid by the developer, is placed in a Traffic Mitigation Fund. Revenue from this fund is to be used for the purpose of addressing long term traffic improvements clearly related to and directly benefiting the uses within the area covered by the District Plan.

The Planning Board also has the discretion to require at least one or more TDM programs to reduce morning peak hour volumes. The TDM programs are listed as follows:

- Provide staggered work hours for at least 10 percent of the non-management work force;
- Provide preferential carpool parking locations for all employees;
- Provide a cash incentive for all carpools of two or more licensed drivers. The incentive shall be at least \$40 per month per carpool;
- Provide a shuttle or van service to and from public transportation terminals. The service must have the capacity to accommodate at least 10 percent of the employees on the largest shift;
- Provide a work at home option for at least one day per week for at least 10 percent of the total work force;
- Provide subsidized public transportation passes of at least 20 percent of the monthly pass cost; and
- Other programs designed by the project applicant and approved by the Planning Board in lieu of or in addition to those listed above.

In addition, all TDM plans are subject to review by the Planning Department every two years for compliance with previously approved TDM program terms and measures.

Appendix H Needham's Zoning Bylaw – Intensity of Use Special Permit Criteria for the NEBC, HC-128, and MU-128 Districts – Section 6.8

Local Option Meals Tax to Support Fixed-Route Shuttle Service - Acton

Massachusetts law provides any city or town the ability to impose an excise of 0.75% on the sales of restaurant meals originating within the municipality by accepting Chapter 64L, Section 2(a). The local option tax would be \$.75 on a \$100 restaurant bill.

At its Annual Town Meeting held on April 2015, Acton voted to impose a local meals excise tax upon the sale of restaurant meals originating within the Town and voted to allocate revenue from the Local Option Meals Tax to the operation of a town-run fixed-route shuttle service. Approximately half of the costs to operate the new shuttle service will come from the Local Option Meals Tax and the other half from the Lowell Regional Transportation Association.

The Town of Acton also voted to accept the provisions of Chapter 44, Section 53F½ of the General Laws to establish a Transportation Enterprise Fund from which all transportation programs will operate. An Enterprise Fund gives communities the flexibility to account separately for all financial activities associated with a broad range of municipal services for which a fee is charged in exchange for goods or services.

The Transportation Enterprise Fund will serve as a transparent mechanism to show where the revenue from the Town's various transportation programs will be retained. Other transportation programs which will be included in the Transportation Enterprise Fund include the Council on Aging Van, MinuteVan transportation services, the Dial-A-Ride (General Population), Rail Shuttle (Commuters), and the Road Runner service (Seniors and People with Disabilities).

Mitigation Stabilization Fund – Dedham

Under the provisions of Massachusetts General Laws Chapter 40, Section 5B, municipalities can establish multiple stabilization funds and assign a different purpose to each. Creation of the mitigation stabilization fund, and an appropriation to the fund, requires a two-thirds vote of a city council, town meeting, or similar committee. The vote must clearly define the purpose of each fund established.

Developers or parties who have an agreement with the Town of Dedham that includes mitigation payments, infrastructure charges or other payments in connection with a regulatory activity or a municipal contract, permit application, or bylaw make payments to the Town's Mitigation Stabilization Fund. Comprised of 5 members, the Town's Mitigation Funds Committee makes recommendations to the Town regarding the expenditure of funds on deposit in the Mitigation Stabilization Fund. Subsequently, the Town Manager proposes a plan regarding the expenditure of the Mitigation Stabilization Funds.

Appendix I Dedham's Town's Charter - Mitigation Funds Committee – Section 39-32

Density Bonus – Framingham

A density bonus is an incentive-based tool that permits developers to increase the maximum allowable development on a property in exchange for advancing community public policy goals. Increasing development density may allow for increases in developed square footage or in the number of developed units. Density bonuses work best in areas where growth pressures are strong and land availability limited or when incentives for attaining the goals outweigh alternative development options.

The Town of Framingham has special provisions under the Highway Overlay District Regulations. There are two overlay districts which fall under this section, the Regional Center (RC) district and the Highway Corridor (HC) district. Within these two districts there are incentives which allow a development to exceed the density restrictions of the underlying zoning in return for providing public amenities which compensate for one or more specific impacts of increased density. These amenities may include traffic improvements, pedestrian or transit improvements, and creation of additional open space.

In the RC district, the Planning Board may grant by Special Permit an increase in the FAR for new construction above the existing maximum of 0.32 up to a maximum of 0.40. In granting an increase in the FAR, the Planning Board shall make a specific finding in writing that the increase shall not be substantially more detrimental to the neighborhood than the existing structure or use. In addition, the developer must provide public benefit amenities such as pedestrian circulation improvements, public assembly space, traffic improvements, or transit amenities. The amenities provided must adhere to a Schedule of Bonuses table. The Schedule of Bonuses table lists the ratios indicating how many square feet of new development is equal to square feet or dollars of public amenities.

Schedule of Bonuses

Public Benefit Amenity	Amenity Unit	Bonus Ratio*
Open Space Amenities		
Park	Square foot	1:1
Excess Pervious Landscaping	Square foot	1:0.5
Pedestrian Circulation Improvements		
Off-Site Sidewalk	Square foot	1:1
Pathway/Bikeway	Square foot	1:1
Pedestrian Bridge/Tunnel	Square foot	1:1
Public Amenity Space	Square foot	1:5
Traffic Improvements		
Service Road (24-30 foot paved width)	Square foot	1:3
Transit Amenities		
Transit-related Lane Widening	Square foot	1:2
Public Transit Endowment	Dollar (\$)	20:1

*Note: **BONUS RATIO** = Amenity: Floor Area

Appendix J Framingham's Zoning Bylaw - Highway Overlay District Regulations - Section III.E

Transportation Management Overlay District (TMOD) - Lexington

In 2009, the Town of Lexington approved an increase in the amount of development allowed for the Hartwell Avenue Corridor. Realizing that increased development would have an impact on the overall transportation network in this corridor, the Town moved to adopt an overlay district that would link the transportation impacts of development to specific mitigation measures. This overlay district is referred to as a Transportation Management Overlay District (TMOD). The TMOD process includes a specific set of regulations and fee structures for a development which makes the process more streamlined and predictable.

TMODs can be established in other areas of Lexington where development impacts are deemed to have a degrading impact on the transportation network and quality of life for residents. In order to establish a TMOD, a Transportation Plan needs to be completed that includes the following components:

- Cost projections for transportation infrastructure improvements required to address the impacts generated by the anticipated development in the TMOD;
- Required transportation mitigation fees;
- Parking and TDM techniques reasonably calculated to reduce the number of vehicle trips generated by developments in the TMOD and to ensure the long term stability of the transportation system; and
- Plan to encourage voluntary participation in TDM programs by those not required to participate.

As part of the TMOD process, the developer must create a full or partial Parking and Transportation Demand Management Plan (PTDM) depending on the size of the development. A PTDM must address specific demand management techniques that will be utilized to reduce SOV trips (e.g., membership in a TMA) and parking. Developers are required to submit annual reports to the Town that include information on employee/patron mode split, the results of the PTDM measures, and goal attainment.

The Town of Lexington created a transportation mitigation fee structure for development as well. The fee is the sum of \$5.00 for every square foot of increased net floor area above the FAR listed under the base zoning. The transportation fees collected from new development in the TMOD are put into an account that is used to pay for the design and improvements to the transportation network to further the goals of the plan established for the TMOD⁹.

Appendix K *Lexington's Zoning Bylaws – Transportation Management Overlay District – Section 135-7.0*

TDM Policy - Lexington

The Town of Lexington's Planning Board adopted a TDM Policy in 1997. The TDM Policy focuses on meeting Lexington's transportation needs by a variety of measures that affect the demand for, and use of, various modes of travel rather than changes in the supply of transportation facilities, such as the construction of roadways and multi-level off-street parking facilities.

The Policy seeks to reduce the use of automobiles, particularly SOV, in order to:

- Permit vehicular traffic on Lexington streets to move in an efficient manner without excessive delay or congestion;
- Reduce motor vehicle and pedestrian accidents on the town's streets;

⁹ The City of Rockville, Maryland also has a TDM fund. Revenue for the TDM fund is collected as a developer fee which is based on \$0.10 per square foot for commercial and retail developments and \$60 per unit for residential developments.

- Permit emergency vehicles to reach homes and businesses with a minimum of delay;
- Reduce the awareness of and impact from vehicular traffic on a predominantly residential town;
- Promote safe and convenient routes for pedestrians and bicyclists;
- Promote cleaner air and reduce automotive exhaust emissions caused by vehicles standing and idling for an excessive time; and
- Maintain a balance between the traffic generating capacity of businesses and residential development in the town and the traffic carrying capacity of streets and intersections.

The TDM Policy also seeks to:

- Assure adequate opportunities for mobility for all Lexington residents, workers and visitors; and
- Expand the Town's inventory of data about transportation needs and transportation utilization.

The TDM Policy seeks to aid Lexington businesses and other establishments to:

- Reduce the cost of operations for Lexington companies and establishments caused by delays in vehicular traffic;
- Expand the pool of potential employees who can reach places of work in Lexington more easily and economically;
- Employ a more efficient and satisfied work force less concerned at the work place by the frustrations of transportation, particularly commuting;
- Permit potential customers and clients to reach places of business in Lexington more easily and economically; and
- Provide transportation services more effectively in collaboration with other businesses and with the Town.

The provisions in the TDM Policy are voluntarily offered by the developer and are not regulatory measures imposed by the Town.

Appendix L Lexington's Transportation Demand Management Policy

Trip Reduction Plan - Hadley

The Town of Hadley has trip reduction measures in their zoning bylaw for Commercial Site Plan Approval. The bylaw requires that any new building or new use of a building in excess of 10,000 square feet submit a Trip Reduction Plan. The Trip Reduction Plan needs to clearly identify a combination of transportation system management strategies designed to reduce anticipated vehicle trips by 35 percent and outline TDM measures. TDM measures include vanpool/carpool incentive programs, on-site bicycle storage and locker facilities, and encouragement of employee and customer use of transit services. Additionally, the Planning Board may reduce minimum parking standards by a percentage for developments that make a long-term commitment to promoting employee and public use of transit, ridesharing, and other means of reducing SOV trips.

Appendix M *Hadley's Zoning Bylaw - Commercial Development and Performance Standards - Section 8.8*

Required TDM Measures in Traffic Studies - Belmont and Braintree

Town of Belmont

The Town of Belmont requires the identification of a project's traffic impacts through a traffic study along with a TDM plan for projects in the Belmont Uplands District. At a minimum, the TDM plan needs to consider ridesharing programs, alternative work schedules, public transportation (e.g., subsidized passes for public transportation and consultation with public transit authorities to establish bus service to the project site), and bicycle facilities (e.g.; inclusion of bicycle racks and/or bicycle storage lockers as well as showering facilities). Subsequently, the traffic impacts and TDM plan need to be appropriately mitigated by the developer.

Appendix N *Belmont's Zoning Bylaw - Design and Site Plan Review for the Belmont Uplands District - Section 6B.6*

Town of Braintree

The Town of Braintree requires the preparation of a Traffic Study for any project that will generate 50 or more new trips during the peak hour for a proposed development. Prior to granting a Special Permit or a Site Plan Review, the Special Permit Granting Authority determines if there will be adequate capacity on all impacted streets and whether mitigation measures may be required. The Town's zoning bylaw outlines specific criteria for measures to mitigate traffic impacts in the Traffic Study.

Appendix O *Braintree's Zoning Bylaw - Traffic Study - Section 135-1404*

Reduction in Number of Required Spaces – Chelmsford

The Town of Chelmsford allows for the reduction of 25% required parking if a property owner can demonstrate a decreased if specific criteria are met under 'Base Parking Reduction Methods.' Up to 50% of required parking can be reduced if there is Payment to Public Parking Fund, Public Parking Reserve, or Traffic Circulation and Pedestrian Safety Improvement Incentives. Details of this zoning bylaw are described below.

Base Parking Reduction Methods

The Town of Chelmsford's Zoning Bylaws specify that up to a maximum of 25% of required parking can be reduced with a special permit from the Planning Board if a property owner can demonstrate that the required number of spaces will not be needed for the proposed use and that fewer spaces meet all parking needs. Such cases might include:

- Use of a shared/common parking lot for separate uses having peak demands occurring at different times;
- Age or other characteristics of occupants which reduce their auto usage;
- Peculiarities of the use that make usual measures of demand invalid;
- If the use is located adjacent to a public right-of-way where striped on-street parking is available;
- If an off-street public parking lot of 20 spaces or more exists within 300 feet of the principal land use;
- If a private off-street parking lot with sufficient space for long-term parking is within a 700 foot walking distance of the principal land use;
- Proximity to public transportation; or
- Other transportation mitigation programs such as car-sharing, carpooling, shuttle service, on-site bicycle commuter services, or other programs.

Additional Parking Reduction Methods

In addition to the parking reductions outlined in the Base Parking Reduction Methods, required parking may be reduced up to a maximum of 50% with a special permit from the Planning Board if one or more of the following methods is utilized for reducing the required number of parking spaces.

- Payment to a Public Parking Fund
- Public Parking Reserve
- Traffic Circulation and Pedestrian Safety Improvement Incentives

Permanently eliminating and/or significantly reducing the width of existing curb cuts in a manner that improves the pedestrian safety and access control on a primary public street;

Providing a perpetual agreement for one or more driveway consolidations or interconnections that will alleviate traffic on a primary street and facilitate shared use of off-street parking;

Providing an internal sidewalk with connections to the primary use entrance, on-site parking area, the adjacent public sidewalk and adjacent uses; or

Providing public access through a permanent easement to the Bruce Freeman Trail or the Beaver Brook and bike racks to accommodate at least two bicycles per eliminated parking space.

Appendix P Chelmsford's Zoning Bylaws - Reduction in Number of Required Spaces – Article 5 – Section 195-18

Specific TDM Measures

Bicycle Parking and Amenities – Arlington, Cambridge, Norwell

The amount and type of bicycle parking and amenities required depend on the site and the users. Short-term users (e.g., shoppers) need convenient parking close to building entrances whereas long-term users (e.g., employees) prefer security and protection from the elements for their bicycles. Arlington, Belmont, Cambridge, and Norwell all have bicycle parking requirements for new developments in their bylaws. The key components of these requirements are described below:

Town of Arlington

The Town of Arlington requires bicycle parking spaces for developments subject to Environmental Design Review (Section 11.06). The required number of bicycle parking spaces is based on the number of motor vehicle parking spaces which have been permitted by the Special Permit Granting Authority.

- If there are fewer than 8 motor vehicle parking spaces provided by Special Permit, bicycle parking is not required.
- When bicycle parking is required, there will be one bicycle parking space per fifteen motor vehicle spaces.
- When bicycle parking is required, there will be a minimum of 2 spaces provided. However, not more than 20 bicycle spaces will be required at a single site.

Appendix Q Arlington's Zoning Bylaw – Bicycle Parking – Section 8.13

City of Cambridge

The City of Cambridge requires bicycle parking for new development and redevelopment projects through its zoning. As stated in Article 6.100 of Cambridge’s zoning bylaws, the purpose of bicycle parking is to “support the ongoing viability of bicycle travel as a transportation option that mitigates the impact of automobile use.” Locations and types of bicycle parking must be shown in building site plans and approved by the City. Article 6.100, distinguishes between Long-Term and Short-Term bicycle parking and where each of these parking types should be located. The zoning bylaw references the City of Cambridge Bicycle Parking Guide for illustrations of acceptable bicycle rack design and layout and access standards to bicycle parking spaces.

Article 6.100, Section 6.107, Required Quantities of Bicycle Parking, provides schedules for calculating the required minimum quantities of Long-Term Bicycle and Short-Term Bicycle Parking Spaces. Each rate shall be multiplied by the intensity of the applicable land use or uses, measured in Gross Floor Area, number of dwelling units, or other specified unit of measurement. The total number of bicycle parking spaces required shall be the sum of the required Long-Term Bicycle Parking Spaces and Short-Term Bicycle Parking Spaces. Any Bicycle Parking Space that meets the requirements for both Long-Term Bicycle Parking and Short-Term Bicycle Parking may contribute to the minimum requirement for one type or the other, but not both. The schedules of the Long-Term and Short-Term Bicycle Parking Requirements are provided in the following tables:

Minimum Long- and Short- Term Bicycle Parking Rates based on Residential Uses

Category	Included Residential Uses	Minimum Long-Term Bicycle Parking Rate	Minimum Short-Term Bicycle Parking Rate
R1	Single-family dwellings, existing single-family dwellings converted for two families, two-family dwellings, rectory or parsonage	No minimum	No minimum
R2	Townhouse dwellings, multifamily dwellings, trailer park or mobile home park	1.00 space per dwelling unit for the first twenty (20) units in a building; 1.05 spaces per dwelling unit for all units over twenty (20) in a building	0.10 space per dwelling unit on a lot
R3	Elderly oriented housing, elderly oriented congregate housing	0.50 space per dwelling unit	0.05 space per dwelling unit
R4	Group housing, including: lodging houses,, dormitories, fraternities and sororities	0.50 space per bed	0.05 space per bed
R5	Transient accommodations, including: tourist houses in existing dwelling, hotels, motels	0.02 space per sleeping room	0.05 space per sleeping room

Minimum Long-Term Bicycle Parking Rates based on Non-Residential Uses

Category	Included Non-Residential Uses	Minimum Long-Term Bicycle Parking Rate
N1	Offices, including: medical, professional, agencies, general, government, radio/television studios, arts/crafts studios	0.30 space per 1,000 square feet
N2	Technical offices, research facilities	0.22 space per 1,000 square feet
N3	Hospitals and clinics; veterinary clinics, public safety facilities, restaurants and eating establishments	0.20 space per 1,000 square feet
N4	Retail stores, consumer service uses, commercial recreation and entertainment	0.10 space per 1,000 square feet
N5	Transportation and utility uses; religious and civic uses; manufacturing, storage and other industrial uses, auto - related uses	0.08 space per 1,000 square feet
E1	Primary or secondary schools, vocational schools	0.30 space per classroom or 0.015 space per auditorium seat, whichever is greater
E2	College or university facilities (excluding residences)	0.20 space per 1,000 square feet
P	Automobile parking lots or parking garages for private passenger cars	1.00 space per 10 motor vehicle parking spaces

Minimum Short-Term Bicycle Parking Rates based on Non-Residential Uses

Category	Included Non-Residential Uses	Minimum Short-Term Parking Rate
N1	Convenience and food stores, restaurants and eating establishments, theaters and commercial recreation	1.00 space per 1,000 square feet
N2	Retail stores and consumer service establishments	0.60 space per 1,000 square feet
N3	Passenger transportation; religious and civic uses; government offices, medical offices and clinics, agency offices, banks (ground floor only); veterinary clinics	0.50 space per 1,000 square feet
N4	Hospitals and infirmaries	0.10 space per 1,000 square feet
N5	Non-passenger transportation and utility uses; laboratories and research facilities; , professional and technical offices; radio/television and arts/crafts studios; manufacturing, storage and other industrial uses; auto-related uses	0.06 space per 1,000 square feet
E1	Primary or secondary schools	1.70 space per classroom or 0.085 space per auditorium seat, whichever is greater
E2	College or university academic or administrative facilities	0.40 space per 1,000 square feet
E3	College or university student activity facilities	1.00 space per 1,000 square feet
P	Automobile parking lot or parking garage for private passenger cars (6.36.2 b)	No additional requirement for Short-Term Bicycle Parking; however, if motor vehicle parking is provided on an open lot, then required Long-Term Bicycle Parking Spaces may be converted to Short-Term Bicycle Parking Spaces

Appendix R Cambridge’s Zoning Ordinance – Bicycle Parking – Section 6.100

Town of Norwell

For parking areas of 10 or more spaces, bicycle racks facilitating locking shall be provided to accommodate one bicycle per 20 parking spaces. No more than 2 bicycle racks shall be required regardless of parking lot size.

Appendix S Norwell’s Zoning Bylaws - Bicycle Racks - Section 3157

Vehicle Parking in Exchange for Bicycle Parking

It is worth mentioning that Portland, Oregon allows reductions to vehicle parking in exchange for bicycle parking. Bicycle parking may substitute for up to 25 percent of required parking. For every 5 non-required bicycle parking spaces that meet bicycle parking standards, the vehicle parking requirement is reduced by 1 vehicle space. In addition, a bicycle sharing facility can substitute for required parking.

Appendix T Portland, Oregon - Zoning Code – Exceptions to the Minimum Number of Parking Spaces – Section 33.266.110 – E.3 and E.7

Parking

The provision and management of parking can have a significant influence on a development's vehicular trip generation and the overall transportation system. There are various parking management strategies that contribute to reducing and managing the supply of available parking. This section outlines the following TDM measures: active first floor uses for parking garages, fees-in-lieu of parking, flexible parking, parking reserves, location of parking, parking maximums, parking reductions, parking restrictions, and shared parking.

Fees-in-Lieu of Parking – Northampton, Oak Bluffs

Where zoning requirements for minimum numbers of parking spaces exist, a fee in-lieu of parking can reduce parking supply for dense mixed-use areas. Fees-in-lieu allow developers to pay a fee (annual or one-time) into a municipal parking or traffic mitigation fund in lieu of providing the required parking on site. The fees can then be used for transportation improvements or 'banked' to fund current or potential future shared parking facilities. By discouraging each development from providing its own separate parking facility, a fee-in-lieu system can improve the overall efficiency of parking provision by addressing the needs of the area as a whole, rather than the needs of each individual site.

Fees in-lieu can be established as a flat rate per parking space not provided or per square foot of floor area, or through a case-by-case determination for the development as a whole. Fees may be imposed as a property tax surcharge or charged when a development is permitted. The actual fee varies among municipalities.

City of Northampton

The City of Northampton requires developers to demonstrate that all cumulative and incremental traffic impacts have been mitigated. If those impacts are not mitigated, the Planning Board shall require in-lieu-of payments to fund a project's proportional share of necessary improvements to mitigate off-site traffic impacts, including provision of public transit and pedestrian or bicycle paths, in lieu of requiring off-site improvements. All in-lieu-of payments will be expended with the approval of the Mayor and City Council. In-lieu-of traffic mitigation payment shall be assessed by the Planning Board after a fact-based analysis of a specific project but shall not exceed a required payment on a per peak trip basis. The required per peak trip payment

ranges from \$1,000-\$3,000 depending on project location. Past experience has been that mitigation of all traffic impacts would be higher than the maximum amount allowed and so many projects are assessed the maximum allowed by a table which is outlined in the zoning bylaw.

Appendix U *Northampton's Zoning Code – Allowance of Reduced Parking Requirements – Section 350.11 – Site Plan Approval and Section 350 - 8.10 – Approval Criteria*

Town of Oak Bluffs

The Town of Oak Bluffs allows uses proposed for the B-1 Business District that are unable to meet the off-street parking requirements to make a payment in-lieu of providing the spaces. The payments are annual per space and depend on the number of required spaces. In general, the in-lieu fee ranges from \$50 to \$100 per space each year. Payments go to the Oak Bluffs B-1 District Parking Mitigation Trust.

Appendix V *Oak Bluffs' Zoning Bylaws – Off-Street Parking Requirements – Special Permit in the B-1 District – Section 5.1.5*

Parking Reserves – Acton, Cohasset, Dennis, Marlborough, Sudbury

Parking reserves require new developments to pave a reduced number of parking spaces, but hold sufficient land in reserve to provide additional parking spaces that might be required in the future. As long as the additional parking is not needed, the land can be landscaped or used for other amenities such as playgrounds or parks. This technique is effective in phased developments or for uses where parking demand is uncertain.

This approach has several advantages. First, it addresses concerns about the site being able to provide adequate parking. Second, it defers or foregoes entirely the costs of building a portion of the parking. Third, it highlights the tradeoffs between parking and other amenities.

Several municipalities in Massachusetts (e.g., Acton, Marlborough, Cohasset, Sudbury, and Dennis) have regulations allowing parking spaces to be held in reserve, with variations on how the reduction may be authorized (e.g., Board of Selectmen, Planning Board), what type of development review is necessary (e.g., Site Plan, Special Permit), and the maximum reduction allowed.

Town of Acton

Under a Site Plan Special Permit, the Board of Selectmen may authorize a maximum reduction of 75 percent of the total number of spaces.

Appendix W *Acton's Zoning Bylaw – Reserve Parking Spaces – Section 10.4.4*

City of Marlborough

The City of Marlborough allows the use of temporary parking reserves in cases where there will be a reduced parking demand for at least a year, such as with a large phased development. Reductions of up to 50 percent of the requirement are allowed subject to Site Plan approval.

Appendix X Marlborough's Zoning Ordinance - Off-Street Parking – Section 650-48B(4)

Town of Cohasset

The Town of Cohasset has a maximum reduction of not more than 33 percent of the required parking space. This decision is based on the discretion of the Planning Board as part of a Site Plan review.

Appendix Y Cohasset's Zoning Bylaws – General Parking and Loading Regulations – Section 7.2(10)

Town of Sudbury

The Town of Sudbury has a maximum reduction 30 percent. The reduction may be granted by the Board of Selectmen upon the issuance of a Special Permit.

Appendix Z Sudbury's Zoning Bylaws – Reserve Parking Spaces – Section 3113

Town of Dennis

There is no maximum parking reduction in the Town of Dennis. This decision is determined by the Planning Board as part of a Site Plan Special Permit.

Appendix AA Dennis' Zoning Bylaws – Off-Street Parking and Loading Requirements – Section 3.1.7.4

Location of Parking – Acton, Bedford, Beverly, Cambridge, Millis, Stoughton

Parking in front of buildings where it is most visible from the street requires that buildings be set back from the street. Doing so can detract from the pedestrian environment and make the area less comfortable for pedestrians. However, if parking is sited behind buildings pedestrian accessibility from sidewalks can be promoted. If buildings front directly on roadways, they can create an active and engaging environment where pedestrians can easily walk between buildings rather than driving.

Several municipalities in Massachusetts (e.g., Acton, Bedford, Beverly, Cambridge, Millis, and Stoughton) have regulations that restrict the location of parking.

Town of Acton

The Town of Acton's Special Provisions for the Village, Kelley's Corner and Powder Mill Districts prohibits parking between the front of a building and the street.

Appendix BB Acton's Zoning Bylaw – Parking Standards – Special District Provisions - Section 6.9

City of Beverly

The City of Beverly prohibits accessory off-street parking within the front yard of any district (except for one- and two-family dwellings) and employee parking within the front yard in the City's restricted industrial, research and office district.

Appendix CC Beverly's Zoning Ordinance – Parking and Loading Requirements - Section 29-25

City of Cambridge

Section 6.44.1 (c) of the City of Cambridge's zoning code states that "No on grade open parking space shall be located within a required front yard setback."

Appendix DD Cambridge's Zoning Ordinance – Design and Maintenance of Off-Street Facilities – Section 6.44.1(c)

Bedford, Millis, Stoughton

The bylaws defining specific locations and land uses in Bedford, Millis, and Stoughton include language encouraging the strategic location of parking: "To maintain a pedestrian-friendly environment, motor vehicle parking spaces shall be located behind or beside buildings to the maximum extent possible. Motor vehicle parking shall not be located directly between the building and the street alignment."

Appendix EE Bedford, Millis, and Stoughton – Zoning Bylaws – Vehicle Parking Bedford – Sections 17.5.11 and 18.5.11, Millis – Section 4.11, Stoughton – Sections 7.2 and 7.4.1

Parking Maximums – Bedford and Belmont

Parking maximums restrict the total number of spaces that can be constructed and establish an upper limit or cap on parking supply. Applying parking maximums can result in limiting traffic and the amount of land allocated for parking.

Town of Bedford

The Town of Bedford has maximum parking allowances for certain uses that include educational, housing for the elderly, mixed uses, and child care facilities.

Appendix FF Bedford's Zoning Bylaws – Parking Regulations – Required Spaces – Section 7.4.1

Town of Belmont

The Town of Belmont has maximum numbers of parking spaces allowed for each subdistrict of the McLean Hospital property and in the McLean District.

Appendix GG Belmont's Zoning Bylaw – Maximum Number of Parking Spaces – Section 6.A.3.1

Parking Reductions and Restrictions – Braintree, Gloucester, Ipswich, Northampton

Reducing and restricting the supply of parking is strongly related to the number of vehicular trips and roadway congestion.

Town of Braintree

The Town of Braintree allows reductions in required parking as part of a special permit or site plan review. A parking study needs to be completed that determines whether the parking to be provided will be adequate.

Appendix HH Braintree's Zoning Bylaws – Decreases in Parking Requirements – Section 135-803

City of Gloucester

The City of Gloucester does not require parking for business and municipal uses within 400 feet of a municipal parking facility.

Appendix II Gloucester's Zoning Ordinance – Off-Street Parking – Section 4.1

Town of Ipswich

The Town of Ipswich does not require parking for developments in the CBD or within 500 feet of municipal parking.

Appendix JJ Ipswich's Protective Zoning Bylaw – Municipal Parking Lot Exemption - Section VII.I.

City of Northampton

Northampton allows parking requirement reductions up to 20 percent for employee parking on major projects (350-8.6) through site plan review. The City also requires a trip-reduction plan through Site Plan Review for new commercial, office and industrial buildings or uses over 10,000 square feet (350-11.5.B.(3)b).

Appendix KK Northampton's Zoning Code – Shared Parking (Section 350-8.6) and Site Plan Approval (350-11.5.B.(3)b)

Shared Parking – Marlborough, Stoneham, Waltham, Westfield

Shared parking is a parking lot or facility that serves multiple destinations and enables a reduction of overall parking supply and vehicular trips. Shared parking can be especially effective in mixed use developments, either when there is a mix of uses on a single site or when sites with different uses are located close together and have different periods when parking demand is highest (e.g.; an office building sharing parking with a restaurant or movie theater).

City of Marlborough

The City of Marlborough allows shared parking in all districts for uses with different peak periods, allowing reductions of up to one-half of the minimum parking required for the uses separately. The City requires documentation of the reduced parking demand as well as additional provision of open space for each parking space not provided as a result of shared parking.

Appendix LL Marlborough's Zoning Ordinance – Off-Street Parking - Section 650-48.B-3

Town of Stoneham

Stoneham allows shared parking by special permit with the approval of the Planning Board. Up to 50 percent of required spaces may be shared with uses having different operating hours. The parties are required to sign a joint use agreement.

Appendix MM Stoneham's Zoning Bylaws – Special Permits for Off-Street Parking – Section 6.3.8.1

City of Waltham

In Waltham, parking requirements for any mixed use parcel or building are calculated by using a time table of parking requirements by use. Section 5.2, Off-Street Parking Requirements, of Waltham’s General Ordinances provides a ‘Parking Credit Schedule Chart’ of parking requirements by use and time of day. This table is shown below.

Parking Credit Schedule Chart

Uses	Weekday			Weekend	
	Night Midnight to 7:00am (%)	Day 7:00am to 5:00pm (%)	Evening 5:00pm to Midnight (%)	Day 6:00am to 6:00pm (%)	Evening 6:00pm to Midnight (%)
Residential	100	60	90	80	90
Office/Industrial	5	100	10	10	5
Commercial Retail	5	80	90	100	70
Hotel	70	70	100	70	100
Restaurant	10	50	100	50	100
Restaurant Associated with Hotel	10	50	60	50	60
Entertainment/Recreation (theaters, bowling alleys, cocktail lounge)	10	40	100	80	100
Day-Care Facilities	5	100	10	20	5
All Other	100	100	100	100	100

Appendix NN Waltham’s Zoning Code - Off-Street Parking Requirements – Section 5.2

City of Westfield

The City of Westfield’s parking ordinance provides flexible standards and options. Downtown Westfield has a number of well utilized and maintained municipal lots behind its main street stores. The ordinance allows for shared off-site facilities within 300 feet of the uses. The Planning Board can also issue a Special Permit for the multiple use of individual spaces in accordance with an approved Parking Management Plan. The Plan must demonstrate that the peak parking demand generated by the uses occurs at different times, and that there will be adequate parking for the combined uses at all times.

Appendix OO Westfield’s Zoning Ordinance - Shared Parking - Sections 7-10-3 and 7-10-7

TMA Membership and TDM Implementation - Woburn

The City of Woburn requires project applicants to participate in the regional or local TMA and implement TDM programs for projects that both require a special permit and are 15,000 square feet or greater in gross floor area.

Appendix PP Woburn's Zoning Ordinance – Traffic Safety and Infrastructure Fund – Section 18.7.8

TDM Related Measures

Although requiring first floor uses for parking garages or limiting the number and width of driveways and curb cuts are not considered to be TDM measures, both are design guidelines that advance pedestrian safety and comfort as well as enhance the character of the public realm. Implementing either of these design guidelines can indirectly reduce the frequency of SOV trips.

Active First Floor Uses for Parking Garages – Cambridge

Requiring first floor uses around a parking structure (e.g., newsstands, stores, coffee shops) keeps the area active at street level and maintains visual interest. It can also benefit the developer by providing an additional source of revenue through the lease or sale of this space.

In 2001, as part of a broader rezoning effort, the City of Cambridge revised its zoning code to exempt underground parking facilities from gross floor area calculations. The regulations state that the roof of an underground parking facility must not be more than 4 feet above the ground, and that it must be below either a non-parking structure or an open space amenity or pedestrian circulation area. This regulation strongly encourages active first-floor uses as well as underground parking.

Appendix QQ Cambridge's Zoning Ordinance - FAR Exceptions for Parking and Loading Facilities – Section 5.25

Driveway Curb Cuts – Dover and Marshfield

Driveway curb cuts are a major source of vehicle-pedestrian-bicycle conflicts and induce congestion on busy roadways due to turning vehicles. Limiting the number and width of driveways and curb cuts can reduce or eliminate locations where pedestrians and bicyclists are at risk of getting struck by vehicles. As a result, a safer and less congested environment is established. Allowing for the shared use of an access drive by two or more business owners can also help reduce the number of driveways and curb cuts along streets.

The purpose of Dover's, Chapter 196, Residential Driveways and Curb Cuts, is to "limit the potential area of traffic conflict and promote safety." Section 196-5, Guidelines for Location and Construction, outlines specific guidelines to locate driveway entrances to minimize points of traffic conflict between vehicles, pedestrians, and bicyclists.

Appendix RR Dover's Zoning Bylaws – Residential Driveways and Curb Cuts – Section 196-5

The Town of Marshfield's curb cut bylaw for projects undergoing special permit review contains standards that include issuing one curb cut per parcel, encouraging the sharing of curb cuts with adjoining parcels, and providing curb cuts on site streets, not major roadways, wherever possible.

Appendix SS Marshfield's Zoning Bylaw – Curb Cut Bylaw – Section 11.11

National – Municipal Case Studies, Specific TDM Measures and State Programs

This section contains descriptions of national case studies which are examples of successfully implemented TDM policies and programs. The case studies are on the state and municipal level, many of which utilize creative approaches. It is important to keep in mind that the case studies' policies and programs differ widely due to geographic location, unique transportation challenges, and availability of transit services. Most importantly, policies and programs which are implemented in one state will most likely have legal limitations in Massachusetts.

Municipal Case Studies

Commuter Benefit Ordinance – San Francisco, California

In 2008, the City of San Francisco adopted a Commuter Benefit Ordinance. The ordinance and TDM program implementation is based on the premise of developing partnerships between the public and private sectors. This ordinance requires all employers with 20 or more employees (including part-time, out of state, and temporary workers) to provide one of three commuter benefits:

1. Pre-Tax Transportation Benefit

A monthly pre-tax deduction, up to \$130/month, to pay for transit or vanpool expenses.

2. Employer-Paid Transportation Benefit

A monthly subsidy for transit or vanpool expenses equivalent to the price of the San Francisco Muni Fast Pass (including BART travel), currently \$80/month.

3. Employer-Provided Transportation

A company-funded bus or van service to and from the workplace.

In turn, the city provides a guaranteed ride home program, ride matching, and a bicycle share program to support employers. The basic premise of this ordinance is to promote incentives that make alternatives to SOV travel less expensive and more convenient. Unlike the majority of ordinances designed to reduce trips, San Francisco's ordinance is straightforward to implement and administer. Employers are not required to conduct surveys or complete extensive TDM plans. However, employers are subject to fines in the event of

violations. Fines range from \$100 for the first violation, \$200 for the second violation, and \$500 for the third violation, up to a maximum of \$800.

With over 9,000 employers subject to the Commuter Benefit Ordinance, the City is able to administer the program with 1.5 staff members, whose primary focus is on education and assistance, not compliance and enforcement. When evaluating the program, San Francisco has reported that an estimated 40 percent of employers have added a benefit program directly related to the ordinance.

Appendix TT *San Francisco, California - Commuter Benefits Ordinance*

TDM Ordinance – South San Francisco, California

The City of South San Francisco's Zoning Ordinance comprehensively addresses TDM measures for new non-residential developments expected to generate 100 or more daily trips¹⁰ or projects seeking a floor area ratio bonus. All projects subject to this zoning ordinance are required to incorporate TDM measures that demonstrate reducing the number of trips to achieve a minimum alternative mode use of 28 percent or greater.

South San Francisco's ordinance requires a comprehensive process, in terms of the range of project applicants impacted, the TDM measures considered, and the monitoring and reporting requirements that must be met.

Trip reduction measures specified in the ordinance include the following:

- Ride matching services for carpools and vanpools;
- Designated employer contact to administer the trip reduction program for that employer;
- Provide direct routes to transit;
- Guaranteed ride home program;
- Information boards and kiosks;
- Passenger loading zones;
- Pedestrian connections to external streets;
- Promotional programs;
- Free showers and clothes lockers;
- Shuttle program; and
- Transportation management association.

The ordinance also outlines additional measures that a project applicant may choose from:

- Alternative commute subsidies/parking cash out;
- Bicycle connections;
- Compressed work week;
- Flextime;
- Dedicated land for transit/bus shelter;
- Onsite amenities (e.g., ATM, day care, cafeteria, convenience retail);

¹⁰ Based on ITE Trip Generation rates.

- Paid parking at prevalent market rates;
- Telecommuting; and/or,
- Other measures not listed above, including child care facilities and an in-lieu fee negotiated with the City.

All projects are subject to an annual survey to determine how well the required TDM measures reduce the actual number of trips generated. In addition, the ordinance outlines an on-going obligation for implementation, monitoring, and reporting which is tied to the land in the event of a change in building ownership.

Appendix UU South San Francisco, California – Municipal Code - TDM

Transportation Management Plan Program – Alexandria, Virginia

Alexandria’s Transportation Management Plan (TMP) program focuses on reducing traffic congestion and improving air quality. Alexandria’s TMP program, including the ordinance and special use permit requirement, is a strong and comprehensive tool which mitigates the negative transportation impacts of new developments and assures suitable land use and transportation planning.

The TMP program requires developments of a certain minimum size to mitigate traffic and its related impacts with an on-site TDM program. Dating back to 1987, this program has a well-defined range of uses that trigger a TMP. Per the ordinance’s requirements, the following land uses must prepare TMPs:

Land Uses Required to Prepare TMPs

Land Use	Minimum Size Triggering TMP
Office	50,000 or more square feet of usable space.
Retail	40,000 or more square feet of usable retail sales space.
Industrial	150,000 or more square feet of usable space.
Residential	250 or more dwelling units.
Mixed-Use	Any combination of space including one or more of the foregoing uses, at the threshold size applicable to that use. If the threshold is satisfied in any of the uses, the TMP must be prepared for all uses present in the project.

It is required that the TMP be created prior to the issuance of building permits. In addition, tenants and/or owners of each site are required to contribute to, and manage, a TMP fund. Revenue from a TMP fund is intended to finance transportation strategies that include incentivizing transit use by offering subsidies and providing additional funding for shuttle bus service or car sharing. Bus shelter construction and maintenance, bicycle lockers, and parking facilities for carpoolers/vanpoolers can also be advanced from a TMP's fund's revenue. The fund stays in an account belonging to the TMP holder but the City can claim this revenue if no approved transportation activities are implemented.

Other key components of Alexandria's TMP program include:

- Intended to promote the use of public transportation, there are two types of percentage goals within its TMP program. The first goal is to attain a 10-30 percent usage for a travel mode other than driving alone for a site's projected peak morning and evening trips. The second goal outlines that no more than 40 percent of projected SOV trips to a development take place between 6am-10am and between 3pm-7pm.
- Developments are required to designate a transportation coordinator. The coordinator is responsible for implementing, managing, and tracking TDM strategies approved in the TMP program. Annual reporting and surveying are required for monitoring.
- A TMP approved by the City is written into the deed and is conveyed in perpetuity with the land. If there is non-compliance with a TMP, the ordinance specifies that zoning tickets will be incurred based on a daily financial penalty.

***Appendix VV Alexandria, Virginia – Zoning Ordinance –
Transportation Management Special Use Permits***

TDM Program – Option to Reduce Trip Generation – Bend, Oregon

The City of Bend has a TDM option that allows a developer to reduce their trip generation for traffic study purposes by creating a TDM Program. Chapter 4.7 of the Bend Development Code states "The applicant may choose to develop a TDM program to reduce net new trip generation for a proposed project when trip reductions are necessary to minimize off-site mitigation requirements. Proposed elements of the TDM program will be evaluated to determine trip reduction rates."

Per Development Code Chapter 4.7, the following trip reduction rates shall be applied if a TDM program with these elements is proposed by a developer:

Trip Reduction Rates Based on TDM Program

TDM Program	Trip Reduction
Project provides employee showers, lockers, and secure bicycle parking according to requirements of the Bend Development Code	5%
Project is located within ¼ mile of a transit route	5%
Project is located within ¼ mile of a transit route and employer provides free or significantly reduced monthly bus passes to employees	10%
Project provides free priority parking for carpools/vanpools	5%
Project provides free priority parking for carpools/vanpools but fee non-priority parking for other employees	10%
Other TDM elements as approved by the City Engineer; or, maximum trip reduction for combined TDM program elements	25%

A Transportation Impact Study is also required to show that the proposed trip reductions will be adequate to reduce the development's trips and bring the transportation system into compliance with the operations criteria.

Appendix WW - Bend Oregon – Development Code – Reduce Impacts with a TDM Program

Tiered TDM Plan – Bloomington, Minnesota

In Bloomington, developers are required to complete a TDM plan and join a TMA for any development with more than 1,000 square feet in floor area or 350 parking spaces.

The City's TDM plan has two tiers of programs based on the type and size of a development as well as parking. Tier 1 plans have more rigorous requirements than Tier 2 plans. A TDM plan prepared by a Tier 1 developer must be approved by the City before the building permit is issued and construction can commence. A developer is required to commit to measures selected from a TDM checklist for Tier 2 TDM plans. The checklist is then submitted with the development package.

For Tier 1 projects, Bloomington's ordinance requires a financial guarantee which is determined by the number of parking spaces in the proposed development at \$50 per parking space before an occupancy permit is issued. The City established the rate of \$50 per parking space to ensure the financial guarantee operates both as an incentive to developers and not a deterrent to development. A TMA plan for a Tier 1 project also requires TMA membership. It is important to note that there is no fee to join the TMA.

Once a development has been completed, annual reports are required. Annual reports need to outline specific measures of success that include trip reduction goals, TDM measures to be implemented, evaluation measures, and a three-year budget for TDM implementation. If the measures outlined in the annual report are met, then the financial guarantee is returned to the developer. Conversely, if it is determined that an employer's efforts to implement TDM measures are insufficient, the fees collected from the financial guarantee can be transferred to the TMA to implement programs on their behalf.¹¹

Bloomington handles property ownership changes by adding as a condition of the land deed that the TDM plan be approved and maintained. This ensures that any future property owner must abide by the TDM ordinance. The TDM plan requirements, financial guarantees, and administration process are outlined in the City's TDM ordinance.

Appendix XX Bloomington Minnesota – Transportation Demand Management

Transportation Management Programs – Seattle, Washington

The City of Seattle requires large buildings and developments to reduce the potential for vehicular traffic and parking impacts through Transportation Management Programs (TMP). A TMP identifies how drive-alone commutes of tenants and employees will be reduced. Seattle's TMP program requires a customized TMP for each major building and/or development. A typical TMP outlines the individual building and/or development's TDM goals and the programmatic elements that will be monitored over time. It is important to mention that the TMP is distinct from the State Commute Trip Reduction Law in that it applies to individual buildings, rather than to individual employers.

Seattle regulates TMPs under the authority of Director's Rule DR 10-2012 - Transportation Management Programs¹². This rule was established to comply with goals, laws, and rules targeted toward reducing congestion and emissions. Under DR 10-2012, the City may require a TMP for a major building and/or development prior to the issuance of building permits, based on a "Director's Decision".

¹¹ Before a building permit can be issued, the City of Pasadena, California requires a \$2,000 deposit upon the submittal of a TDM plan for review and approval. Every property owner is required to pay a \$430 fee each time an annual report is submitted.

¹² Director's Rules are binding rules concerning land use, construction, housing, and other codes administered by Seattle's Department of Planning and Development.

In addition to establishing property owner responsibilities, DR 10-2012 also identifies the ordinance authority and establishes the content, procedures, compliance, and reporting requirements of TMPs. DR 10-2012 includes a matrix with a list of TMP elements that are either required of all developments, highly recommended, or are location-dependent. The TMP elements are subdivided by major focus areas that include building and frontage features, management and promotion, parking management, transit, carpool and vanpool programs, bicycle/walking programs, and additional incentives for owner-occupied buildings.

A comprehensive approval and compliance evaluation process requiring surveying and reporting is part of the program. A binding agreement is also required with the project applicant that allows the City to pursue enforcement actions if the building and/or development does not meet its requirements.

Appendix YY Seattle, Washington – Transportation Management Programs – Director’s Rule 10-2012

Transportation Sales Tax & Required TDM Traffic Study Component – Boulder, Colorado

The City of Boulder is nationally regarded for its forward thinking approach to TDM and commitment to SOV alternatives and has one of the lowest SOV rates for all trips by residents of any city without a rapid transit system. A major contributor to this low SOV rate is the City’s utilization of parking revenues to subsidize the cost of public transit in its CBD. As a result, the City is able to provide a free annual all-access bus pass (known as the Eco Pass) to all 7,000 downtown employees.

In 1967, Boulder established a dedicated transportation sales tax to fund transportation programs (0.1% or one cent on a \$10 purchase). In 2007, voters approved an extension of the transportation sales tax through 2024. This transportation sales tax helps fund Boulder’s bus system, Community Transit Network, as well as bicycle, transit, and mobility programs that advance alternative modes of transportation as well as reduce traffic.

The success of Boulder’s programs is due to several factors that include collaborating with the regional transit authority and working closely with the Transportation Management Organization (TMO)¹³, Boulder Transportation Connections. This collaboration includes, but is not limited to, evaluating and implementing TDM plans, as well as allocating funding for programs.

Boulder’s Design and Construction Standards require a TDM component for every Traffic Study. A Traffic Study is required for any development proposal where trip generation from the development during the peak hour is expected to exceed 100 vehicles for nonresidential projects, or 20 vehicles for residential projects.

¹³ A TMO is an entity similar to a TMA.

A TDM toolkit has been established which allows developers to select one of three TDM packages designed to meet the needs of the area they are building in. All three packages must offer basic TDM measures that include but are not limited to: assigning an Employee Transportation Coordinator, providing ridesharing information, bicycle parking, and program evaluation. Details of each package are described below:

Package A

Any developer who is within the area served by Community Transit Network must provide a 100 percent transit subsidy (Eco Pass) for all employees/tenants for a three year period and financially guarantee the funds in a city-controlled escrow account.

Package B

When providing a transit subsidy is not a viable or practical option due to a low level of transit service, a developer needs to establish a program which requires limiting and charging for parking. Examples include managed and paid parking, parking cash-out, and/or unbundled parking.

Package C

Developers can opt to create their own TDM plan. Developers are required to work with City staff to design a customized plan which is required to include a process to evaluate the TDM plan's effectiveness as well as be approved by the City.

Boulder has also begun looking into creating TDM taxing districts. A TDM taxing district will collect a tax to run TDM programs for a defined area. TDM programs which include Eco Passes, discounted bicycle share memberships, and free car share memberships will be provided to all employees and residents within a TDM taxing district. In the near future, a TDM taxing district will be piloted in the Boulder Junction area.

Appendix ZZ Boulder, Colorado – Charter -Transportation Sales Tax

'Trip Credits' for Implementing TDM Measures – Menlo Park, California

The City of Menlo Park's Municipal Code allows new developments to take "trip credits" for implementing TDM measures. The intent of the 'trip credits' is to encourage the use of creative ways to mitigate the traffic impacts of new development projects. The City reviews these guidelines with the developer and determines what combination of TDM measures will reduce the net number of trips the project is anticipated to generate on the City's roadway network to a non-significant level.

A program of TDM measures with corresponding 'trip credits' helps to simplify the process of developing a TDM program and establishing the level of trip reduction the developer is seeking. The table below shows some examples of TDM measures and the number of trips credited for each.

Trip Credits Based on TDM Measure

TDM Measure	Number of Trips Credited
Bicycle lockers and racks.	One peak hour trip for every 3 new bicycle lockers/racks installed and maintained.
Operation of dedicated shuttle service during the peak to rail station or urban residential area.	One peak hour trip for each peak hour round trip seat on the shuttle. Increases to 2 trips if a guaranteed ride home program is in place.
Charging employees for parking.	One peak hour trip for each parking spot charged at \$35/month for one year.
Implementation of a vanpool program.	Seven peak hour trips for each vanpool arranged. Increases to 10 if a guaranteed ride home program is also in place.
Implementation of a compressed work week program.	One peak hour trip for every 5 employees that are offered the opportunity to work 4 compressed days per week.
Combination of any two elements.	Five peak hour trips.

Appendix AAA Menlo Park, California – Municipal Code - “Trip Credits” for TDM Measures

Trip Reduction Plan with Required TDM Measures – Santa Monica, California

In an effort to reduce traffic congestion and improve air quality, Santa Monica adopted a Transportation Management Ordinance in 1990. Containing a fee structure, survey requirements, and a detailed Trip Reduction Plan of required TDM measures, Santa Monica's Transportation Management Ordinance is complex, comprehensive, and incorporates various strategies.

Of particular note is Santa Monica's substantial fee structure. For example, any employer in Santa Monica with over 10 employees is required to pay an annual fee per employee. Small businesses with less than 50 employees are charged \$16.83 per employee and employers with over 50 employees are charged \$13.25 per employee. These fees have resulted in a substantial annual operating budget of over \$400,000 for the City.

Employers are required to complete an annual survey to determine the Average Vehicle Ridership (AVR) for their worksite. The survey, which is supplied by the City, requires a 75 percent response rate. All employers are expected to achieve an AVR of 1.5 or better. If an AVR of 1.5 is attained in the first year, a 33 percent credit in the annual employment fee is given; a 50 percent credit is given in year two; and a 60 percent credit for year three or more. Moreover, if an employer is a TMA member, a 25 percent discount is given.

Trip Reduction Plans are comprised of three categories: marketing programs, support strategies (e.g., guaranteed ride home program), and subsidy based strategies (e.g., parking cash-out). When developing their TDM programs, employers are required to select a minimum of five elements within each category.

Santa Monica's Transportation Management Ordinance requires extensive annual reporting from employers. Of the 758 employees who are subject to annual reporting (the paperwork is 46 pages in length), about 20 percent use consultant services. If an employer is found to be in violation of the Transportation Management Ordinance, they will be fined \$5.00 per employee per day.

In 2013, Santa Monica adopted an ordinance which established a Transportation Impact Fee for new development and intensified land uses. Revenue from the Transportation Impact Fee will fund transportation improvements such as new sidewalks, crosswalks, traffic signal upgrades, transit, and bicycle facilities that are necessitated by the new trips associated with land use change. The fees, which are charged prior to issuance of building permits, are based on residential units or commercial square footage.

Appendix BBB Santa Monica, California

Ordinance Requiring Non-Residential Development Projects to Adopt Emission Reduction Plans and Pay Transportation Impact Fees

Ordinance Establishing the Transportation Impact Fee Program

Specific TDM Measures

Car Sharing – Seattle, Washington

Car sharing provides individuals with access to a fleet of shared vehicles, discouraging individual car-ownership. Businesses can use car-sharing use to replace their fleet vehicles. Car sharing at the workplace allows employees to take transit, walk or bicycle to work, since a car will be available for business meetings or errands during the day.

The City of Seattle's Municipal Code allows for up to 5 percent of the total number of a project's parking spaces be used to provide parking for vehicles operated by a City recognized car sharing program. The number of required spaces may be reduced by one space for every parking space leased by a City recognized car sharing program. In addition, for any development requiring 20 or more parking spaces that provides spaces for vehicles operated by a car sharing program may reduce their parking by the lesser of 3 required parking spaces for each car sharing space or 15 percent of the total number of required parking spaces.

Appendix CCC Seattle, Washington - Municipal Code – Parking for Car Sharing Programs

Priority Parking for Carpools and Vanpools – Portland, Oregon

Employers that have their own parking facilities can encourage carpooling and/or vanpooling by reserving preferable parking locations (e.g.; close to building entrances or covered). These locations should offer an advantage over other parking but should not be closer than handicap parking spaces.

Portland, Oregon requires office, industrial, and institutional uses with minimum parking requirements over 20 spaces to reserve 5 percent of the spaces or 5 spaces, whichever is less, for carpools. The spaces must be the closest to the building entrance or elevator other than handicap spaces.

Appendix DDD Portland, Oregon - Zoning Code - Priority Parking for Carpools and Vanpools

Unbundled Parking – San Francisco, California

The cost of parking for residential and commercial units is frequently passed on to the occupants indirectly through the rent or purchase price rather than directly through a separate charge. For example, a three bedroom unit might come with two parking spaces included in the rent or purchase price. Consequently, renters or owners are not able to purchase only as much parking as they need and are not given the opportunity to save money by using fewer parking spaces. An alternative is to unbundle parking - lease or sell parking spaces separately, rather than automatically including them with building space. By changing parking from a required purchase to an optional amenity, vehicle ownership and parking demand can be reduced. Unbundling parking is an effective strategy that

encourages households to own fewer cars and rely more on walking, bicycling, and transit. In addition, unbundling parking allows developers to use space which would have been allocated for parking for other components of a building's design. Unbundling parking has shown to reduce parking demand by 10-30 percent.¹⁴

San Francisco requires unbundling in both downtown commercial and residential zones (DTR and C-3 Districts) for all residential structures over ten dwelling units. The City's ordinance also requires that inclusionary affordable units have the same opportunity to purchase or lease parking spaces as other units. SOMA Studios and Apartments is an example of the results of San Francisco's policy of encouraging the unbundling of parking costs from housing costs. Unbundling parking has resulted in a total of 66 parking spaces for the development's 74 apartments and 88 studios. With the available space, a childcare center and retail development were able to be included in the development's design.

Appendix EEE San Francisco, California - Planning Code - Unbundling of Parking Spaces

Reduced Parking Near Frequent Transit Service – Portland, Oregon

Portland, Oregon strikes a balance in its approach to reducing parking minimums and setting maximums in relation to the proximity of transit service. Their zoning ordinance sets much lower maximums where frequent transit service is provided or in areas that are zoned for more intense development. In areas where development is less intense, higher maximums are appropriate, such as beyond a 1/4 mile walk to a bus stop or a 1/2 mile walk to a rail transit station. Minimum parking requirement standards apply for sites located less than 1,500 feet from a transit station or 500 feet from a 20-minute peak hour service. This zoning approach is set upon the concept that limiting the number of parking spaces will promote efficient use of land, enhance urban form, and support transit ridership.

Appendix FFF Portland, Oregon - Zoning Code - Parking Minimums and Maximums

Electric Vehicle Requirements – Lancaster, California

The use of electric vehicles can improve air quality and decrease energy consumption, both of which are critical components of TDM. The City of Lancaster, California's municipal code requires design and performance standards for electric vehicle charging stations (EVCS) as part of new commercial development in specific zones. Specifically, developers are required to provide the necessary electrical service capacity and equipment to serve 2% of the total parking spaces with EVCS. Of these parking spaces, half shall initially be provided with the necessary electric vehicle supply equipment to function as on-line EVCSs upon project completion. The remainder shall be installed at such time as they are needed for use by customers, employees, or other users. The table below outlines types of development requiring provisions for EVCS.

¹⁴ Todd Litman, Victoria Transport Institute.

Types of Development Requiring EVCS Provisions

Types of Development Requiring EVCS Provisions
<p><u>Hospitals</u> Construction of a hospital of 500 or more beds, or expansion of a hospital of that size by 20% or more.</p>
<p><u>Colleges</u> Construction of a post-secondary school (college), public or private, for 3,000 or more students, or expansion of an existing facility having a capacity of 3,000 or more students by an addition of at least 20%.</p>
<p><u>Hotels or Motels</u> Hotels or motels with 500 or more rooms.</p>
<p><u>Industrial, Manufacturing, or Processing Plants/Industrial Parks</u> Industrial, manufacturing, or processing plants or industrial parks that employ more than 1,000 persons, occupy more than 40 acres of land, or contain more than 650,000 square feet of gross floor area.</p>
<p><u>Office Buildings or Office Parks</u> Office buildings or office parks that employ more than 1,000 persons or contain more than 250,000 square feet of gross floor area.</p>
<p><u>Shopping Centers or Trade Centers</u> Shopping centers or trade centers that employ 1,000 or more persons or contain 500,000 square feet of gross floor area.</p>
<p><u>Sports, Entertainment, or Recreation Facilities</u> Sports, entertainment, or recreation facilities that accommodate at least 4,000 persons per performance or that contain 1,500 or more fixed seats.</p>
<p><u>Transit Projects</u> Transit projects (including but not limited to transit stations and park and ride lots).</p>

Lancaster’s Municipal Code also requires new residential developments to provide for EVCS connections. Specifically, garages serving each new single-family residence and each unit of a duplex shall be constructed in a manner to allow for the future installation of electric vehicle supply equipment to provide an EVCS for use by the resident. Similar EVCS provisions apply for 20% of the total parking spaces in new multiple-family projects of 10 dwelling units or less and for 10% of the total parking spaces for new multiple-family projects of more than 10 dwelling units.

Appendix GGG Lancaster, California - Municipal Code - Design Requirements and Performance Standards for Electric Vehicles

State Programs

Commute Trip Reduction (CTR) - Washington

In 1991, the Washington State Legislature passed the Commute Trip Reduction (CTR) Law to address traffic congestion, air pollution, and petroleum fuel consumption. In 2006, the CTR Efficiency Act was passed. This act requires local governments in urban areas with traffic congestion to develop programs to adopt CTR plans and ordinances for major employers¹⁵. Designed to leverage state investment, the CTR program has proven to be an effective tool that eases congestion and encourages employees to find alternatives to drive-alone commuting.

CTR targets workplaces with 100 or more full-time employees in the most congested areas of the state. Employers develop and manage their own programs based on locally adopted goals for reducing vehicle trips and miles traveled. Employers regularly report on their programs and jurisdictions report on progress toward meeting SOV and VMT reduction targets, as well as their use of state CTR funds. More than 1,050 worksites and 530,000 commuters statewide participate in the CTR program.

It has been estimated that for every taxpayer dollar that goes into the program, businesses invest approximately \$18. Additionally, employers who provide financial incentives for employees to commute by non-SOV modes and offer a CTR program can be eligible for a tax credit against their business and occupation (B&O) or public utility tax (PUT) liability. This credit is equal to 50 percent of the incentive payments paid by the employer, up to \$60 per employee per year. In order to ensure the success of the CTR program, collaboration is necessary between state and local governments, transit agencies, and employers.

Appendix HHH State of Washington's Commute Trip Reduction Program Spokane County, Washington – Code of Ordinances – Commute Trip Reduction

Concurrency - Washington

Concurrency is a growth management policy intended to ensure that necessary public facilities and services are available concurrent with the impacts of development. In Washington State, most local jurisdictions plan under the Growth Management Act (GMA), adopted by the State Legislature in 1990. The GMA is a state policy framework for local comprehensive planning and land use regulation. Concurrency is one of the GMA's fourteen goals.

The GMA defines a specific transportation concurrency requirement. First, local jurisdictions must set LOS standards, or minimum benchmarks of performance, for transportation facilities and services¹⁶. The adopted LOS serves as the local jurisdiction's standard to

¹⁵ The CTR Law is now incorporated into the Washington Clean Air Act as [RCW 70.94.521-551](#).

¹⁶ RCW 36.70A.070(6)(a)

measure the impacts new development would have on the local transportation system. A local jurisdiction is then required to measure whether the service needs of a new development exceed existing capacity. If it is determined that adequate capacity is not available, the developer is then required to either implement the necessary improvements at the time of development or make a financial commitment to complete the improvements within six years¹⁷. It is important to note that transportation is the only area of concurrency that specifies denial of development if LOS standards cannot be met.

Local jurisdictions must have a program to correct existing deficiencies and bring existing transportation facilities and services up to locally adopted standards. If the impacts of a proposed development would result in LOS dropping below the standard, the local jurisdiction must either change the standard or deny the application unless the appropriate transportation improvements are made concurrent with development. A local jurisdiction can also accommodate development impacts by changing the phasing or timing of the new development.

Concurrency is not a guarantee of system performance, rather, it is achieved when adequate public facilities are in place and functioning at the adopted LOS at the time development occurs. Additionally, a developer cannot not be required to pay for improvements to correct existing deficiencies.

It is worth mentioning that implementing a transportation concurrency requirement in Massachusetts would most likely face significant legal challenges.

Appendix III State of Washington's Growth Management Act State of Washington's Growth Management Act - Concurrency

Parking Cash-Out Program - California

A parking cash-out program refers to employees who are offered subsidized parking are also offered the cash equivalent if they use alternative travel modes instead of driving a personal vehicle to work. California state law requires certain employers¹⁸ who provide subsidized parking for their employees to offer cash allowance in lieu of a parking space. Enacted in 1992 and referred to as the parking cash-out program, the intent of the law is to reduce vehicle commute trips and emissions by offering employees the option of 'cashing out' their subsidized parking space and taking transit, biking, walking or carpooling to work.

Costs associated with the program may be deducted as a business expense for employers. Employees who opt for the cash-out must pay income tax on it, but employers can eliminate the cash payment and provide a mix of transit passes, ride-share subsidies and cash to reduce the tax liability.

Appendix JJJ State of California's Parking Cash-Out Program

¹⁷ RCW 36.70A.070(6)(b)

¹⁸ Employers with over 50 employees in an air basin designated nonattainment area for any state air quality standard.

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TRANSPORTATION IMPACT ASSESSMENT (TIA) GUIDELINES

Section 1 – Introduction

MassDOT's mission is to deliver excellent customer service to people who travel in the Commonwealth, and to provide our nation's safest and most reliable transportation system in a way that strengthens our economy and quality of life. MassDOT operates in partnership with local and regional agencies to accomplish this mission, in close coordination with Massachusetts Environmental Policy Act (MEPA) procedures and other land use planning processes.

The Commonwealth of Massachusetts reviews development proposals and may require mitigation in accordance with Code of Massachusetts Regulations (301 CMR 11.00: MEPA Regulations and 720 CMR 11.00: Approval of Access to State Highways). MassDOT transportation impact review can be triggered as a function of the MEPA process or MassDOT permitting process.

I. TIA GUIDELINES PURPOSE & POLICY CONTEXT

The primary purpose of the TIA Guidelines is to provide the planning and the preliminary level of engineering analysis to ensure consistency, adequacy, and comprehensiveness in the basic information included in the transportation analysis sections of environmental documents submitted to Commonwealth agencies for review. These guidelines generally apply to all projects subject to MEPA that trigger transportation thresholds. Specific and unique requirements may be noted in the Certificate of the Secretary of the Executive Office of Energy and Environmental Affairs (EOEEA) on an Environmental Notification Form (ENF), Expanded ENF for a project, or a Notice of Project Change (NPC).

A well-prepared TIA will provide the proponent, MassDOT, its partner agencies, and the general public with information needed to properly assess the adequacy of existing and planned transportation infrastructure to accommodate the proposed project, as well as proponent project impacts and proposed mitigation measures. Completing the TIA in a careful and collaborative manner will produce reliable information to support effective and efficient decision-making consistent with the Commonwealth's policies. TIA information will also be used as a basis for the monitoring program that ensures the proponent provides recommended mitigations on an on-going basis (where applicable).

MassDOT seeks to ensure that the transportation impact review process reflects and advances the Commonwealth of Massachusetts' policy goals, in particular those that promote MassDOT's *Project Development and Design Guide* standards on Complete Streets, the Global Warming Solutions Act, the Massachusetts GreenDOT Policy Initiative, the Mode Shift Initiative, the Healthy Transportation Compact, the Healthy Transportation Policy Directive, and the Massachusetts Ridesharing Regulation, Safe Routes to School, as summarized below. These goals work together to mutually reinforce one another and strengthen the Commonwealth's efforts to reduce its dependence on driving.

- A. *Design Guide standards on Complete Streets.* Complete Streets is the comprehensive multi-modal design approach in MassDOT's *Project Development and Design Guide* that requires safe and appropriate accommodation for all roadway users. The document offers guiding principles that include the need "to ensure that the safety and mobility of all users of the transportation system (pedestrians, bicyclists, motorists, and transit users) are considered equally through all phases of a project so that even the most vulnerable (e.g., children and the elderly) can feel and be safe within the public right of way."
- B. *Global Warming Solutions Act (GWSA).* As required by the GWSA, the Executive Office of Energy and Environmental Affairs (EOEEA) developed the Clean Energy and Climate Plan for 2020. The GWSA has set a statutory obligation to reduce greenhouse gas emissions (GHG) by 25 percent below 1990 levels by 2020, and by 80 percent below 1990 levels by 2050. The Plan also describes a targeted portfolio of existing and proposed federal and state policies that will enable Massachusetts to reach the GHG reduction target. Based on the Plan, transportation sector is targeted to provide 7.6 percent of the total 25 percent GHG reduction goal for the year 2020.
- C. *Massachusetts GreenDOT Policy Initiative.* GreenDOT is MassDOT's comprehensive environmental responsibility and sustainability initiative. GreenDOT calls for MassDOT to incorporate sustainability into all of its activities, from strategic planning to project design and construction to system operation, in order to promote sustainable economic development, protect the natural environment, and enhance the quality of life for all of the Commonwealth's residents and visitors. GreenDOT's three primary goals are to 1) Reduce greenhouse gas (GHG) emissions; 2) Promote the healthy transportation options of walking, bicycling, and public transit; and 3) Support smart growth development.
- D. *Mode Shift Initiative.* MassDOT's has established a statewide mode shift goal of tripling the share of travel in Massachusetts by bicycling, transit and walking. The initiative seeks to reduce the number of cars on the road and advance the Commonwealth's greenhouse gas (GHG) emission reduction target of 25 percent from 1990 levels by 2020 and an 80 percent reduction from 1990 levels by 2050.
- E. *Healthy Transportation Compact.* The Compact is an inter-agency initiative designed to facilitate transportation decisions that balance the needs of all transportation users, enhance transportation choice and mobility in all modes, improve public health, support a cleaner environment, and create stronger communities. MassDOT views the Healthy Transportation Compact as an exciting opportunity to strengthen the commitment to public health and improve access for pedestrians, bicyclists, and public transit riders.

- F. *Healthy Transportation Policy Directive.* This policy directive builds upon MassDOT's Complete Streets guidelines, GreenDOT Policy, and Healthy Transportation Compact by requiring that all MassDOT projects not only accommodate, but actively promote healthy transportation modes.
- G. *Massachusetts Ridesharing Regulation.* Massachusetts ridesharing law requires employers with certain numbers of employees to establish drive-alone trip reduction incentives and to subsequently document employee commuting patterns. While compliance with the 25 percent drive-alone commute trip reduction goal depends on voluntary efforts of employees and is not enforceable, completion of the annual reporting requirements and implementation of specific trip reduction incentives by affected employers is enforceable.
- H. *Safe Routes to School.* MassDOT's Safe Routes to School program provides education and encouragement services at 625 elementary and middle schools, which are attended by nearly 300,000 students in 171 municipalities statewide. The program promotes walking and bicycling to school and provides students, parents, and community members with information on the many benefits of walking and bicycling and how to do it safely. Any development projects near schools, in particular residential developments that may house schoolchildren, should consider provision of safe and convenient connections to the schools.

Each of the above policy initiatives must be supported through implementation of the TIA Guidelines, which provide for a multi-modal transportation development review and mitigation process. The TIA Guidelines are intended to emphasize transportation-efficient development and enhancement of transit, bicycle, and pedestrian facilities, as well as foster implementation of on-going, effective Transportation Demand Management programs. TIA preparation should reflect the most up-to-date versions of these policies, as well as any other Commonwealth of Massachusetts policies or regulations that are relevant to evaluation of transportation impacts and development of mitigation, management and monitoring programs.

GUIDELINE ORGANIZATION

The TIA Guideline is subdivided into six sections by topic. The sections are:

- Section 1 – Introduction
- Section 2 – Standard Operating Procedures
- Section 3 – Analytical Procedures
- Section 4 – Mitigation
- Section 5 – TIA Report
- Section 6 – Monitoring

Section 2 – Standard Operating Procedures

This section provides an introductory overview of basic procedural matters including common abbreviations, how to determine the type of study required, preparer qualifications, and the MassDOT TIA Scoping Meeting process.

I. ABBREVIATIONS

Several abbreviations are used throughout this document. Key abbreviations are listed below for reference purposes.

- AAB = Massachusetts Architectural Access Board
- AASHTO = American Association of State Highway and Transportation Officials
- ADT = Average Daily Trips
- CMR = Code of Massachusetts Regulation
- DEP = Department of Environmental Protection
- DOT = Department of Transportation
- EENF = Expanded Environmental Notification Form
- EIR = Environmental Impact Report
- ENF = Environmental Notification Form
- FHWA = Federal Highway Administration
- GHG = Greenhouse Gas
- HSIP = Highway Safety Improvement Program
- ITE = Institute of Transportation Engineers
- LOS = Level of Service
- MEPA = Massachusetts Environmental Policy Act
- MMLOS = Multi-modal Level of Service
- MPO = Metropolitan Planning Organization
- NCHRP = National Cooperative Highway Research Program
- NPC = Notice of Project Change
- RPA = Regional Planning Agency
- RTA = Regional Transit Authority
- TSL = Transportation Scoping Letter
- TDM = Transportation Demand Management
- TIA = Transportation Impact Assessment
- TMA = Transportation Management Association
- v/c = Volume-to-Capacity Ratio

II. TIA PREPARER QUALIFICATIONS

Each TIA should be prepared by or under the direct supervision of a licensed Professional Engineer or Professional Traffic Operations Engineer registered in the Commonwealth of Massachusetts. The preparer must have significant background and experience in the methods and concepts associated with transportation impact studies.

III. THRESHOLDS FOR REQUIRING A TRANSPORTATION IMPACT ASSESSMENT

Preparation of a TIA is generally triggered as a function of the Massachusetts Environmental Policy Act (MEPA) process and/or the MassDOT State Highway Access Regulations. There are a number of transportation-related thresholds, and each project proponent should thoroughly review them, but the following are the thresholds that are most commonly triggered for projects that would require a MassDOT permit.

A. MEPA Thresholds (Code of Massachusetts Regulations (CMR) number 301)

1. Section 11.03.06.a (Transportation) indicates that an Environmental Notification Form (ENF) and Mandatory Environmental Impact Report (EIR) are required for a site with:

Subsection 6) a trip generation of 3,000 or more new Average Daily Trips (ADT) by motor vehicles on roadways providing access to a single location (site), regardless of number of proposed driveways or

Subsection 7) construction of 1,000 or more new motor vehicle parking spaces at a single location

2. Section 11.03.06.b, “ENF and Other MEPA Review if the Secretary so Requires” identifies the following lower thresholds that require only an ENF (although the Secretary of Energy and Environmental Affairs may require additional review at his/her discretion):

Subsection 13) Generation of 2,000 or more new ADT by motor vehicles on roadways providing access to a single location or

Subsection 14) Generation of 1,000 or more new ADT by motor vehicles on roadways providing access to a single location and construction of 150 or more new motor vehicle parking spaces at a single location

Note: The calculation of “new ADT” for the purpose of determining MEPA thresholds and jurisdiction must be done in a manner consistent with MEPA guidelines. Trip adjustments (e.g. for mode split, pass-by, or internal capture) may be made for the purpose of evaluating transportation impacts and mitigation requirements, as discussed below in Sections 3 and 4.

At MassDOT discretion, a TIA may be required for a project with lesser trip generation if it can be demonstrated that the project may have an impact on safety and traffic operations.

IV. TRANSPORTATION SCOPING LETTER (TSL)

MassDOT requires preparation of a Transportation Scoping Letter (TSL) for TIA scoping purposes. The TSL is intended to enable the proponent and MassDOT to concur on the basic analytical approach, technical assumptions, and key transportation issues to be addressed in the TIA. The TSL must be submitted by the proponent and approved by MassDOT prior to development of the TIA; it may be included with the ENF, or, if the proponent wants to file an EENF or include a TIA along with the ENF, then the TSL must be submitted prior to preparation of the ENF/EENF. The process for initiation of the TSL and follow-on work relative to its preparation will be as outlined in MassDOT Standard Operating Procedure.

A TSL shall include the following elements, to the degree that the proponent is able to develop the information prior to executing the in-depth TIA analysis. In situations where the information specified below would require extensive analysis that cannot be completed prior to the execution of the TIA itself, the proponent may describe the data sources to be used and the anticipated analytical approach.

- A. *Trip generation* – Identify the expected use or uses, the amount of space or number of employees (or other suitable indicator of trip generation), and the resulting person-trip generation of the proposed development, including the weekday morning peak hour, the evening peak hour, daily traffic, and other peak periods as may be appropriate (weekday mid-day peak, weekend mid-day peak, etc.), together with appropriate documentation and references. Both trip rates and trip types should be documented.
- B. *Mode Split* – Identify the proposed project’s anticipated/assumed split among major transportation modes – walking, bicycling, public transit, motor vehicle, and other modes (e.g. vanpooling, ridesharing) OR describe the basic approach that will be used to develop the mode split. Identify the source and justification for the mode split assumptions. Proponents should note that MassDOT expects them to maximize project-generated travel by non-single-occupancy vehicle (non-SOV) modes by maximizing transportation choice, providing robust connectivity for non-SOV modes, and promoting Transportation Demand Management.
- C. *Transportation Demand Management* – Identify the existing Transportation Demand Management (TDM) options, relevant programs and providers, and potential solutions in the study area. Contact or review available resources of the following stakeholders to identify existing TDM offerings, local conditions, and potential future options:
 - MassRIDES, the Commonwealth’s travel options program, and/or the local transportation management association (TMA)
 - Nearby employers that participate in TDM programs

- D. *Study Area and Transportation Network* (The following general parameters are offered to aid identification of the study area) – MassDOT approval of the final study area scope is required. Identify the proposed study area and the multi-modal transportation system that serves the study area and provides access to the project site. Include major highways and roadways, intersections and interchanges, pedestrian facilities, bicycle facilities and access, and public transit network. The TIA study area should, in large part, be based on ambient and potential future project area conditions, and should take special care to include transportation system features with existing or potential issues that would be exacerbated by project-generated trips. Example of this include an intersection approach or particular lane group/movement that queues back into an upstream intersection, or a “short-lane” queuing situation with resultant upstream lane blockage on adjoining lanes of its own approach, or generation of pedestrian trips in a location that has substandard pedestrian accommodation. The TSL should demonstrate that adequate field reconnaissance, including photographs and/or videography, was conducted to identify any such issues. For MassDOT’s analytical needs, the study area should focus on roadway intersections and segments within the study area, with a particular focus on roadways under MassDOT jurisdiction. Contact or review available resources of the following stakeholders regarding the existing system, transportation system issues, and planned future conditions:
- MassDOT Highway Division district staff (including Pedestrian/Bicycle Coordinator and/or Complete Streets Coordinator)
 - Regional Planning Agency (RPA) staff
 - Regional Transit Authority (RTA)
 - Municipal planning, transportation, and/or public works staff
- E. *Trip distribution pattern* – Identify the anticipated trip distribution pattern by mode, with graphical representation on a map illustrating the site influence area. The trip distribution pattern should be based on a reasonable set of assumptions and calculations (e.g. a gravity model based on existing travel patterns) that are clearly explained and justified. The graphical representation should present the distribution pattern in percentages.
- F. *Analysis periods* – Based on the site trip generation and the proponent’s knowledge of the study area, the TSL should identify recommended study periods.
- G. *Site plan* – Indicate the proposed “footprint” of the project relative to existing site conditions, the boundaries of land owned by the proponent, the abutting land uses, transportation facilities (including private and access roadways, sidewalks, public right-of-way, public transit stations/stops/routes, and bicycle facilities) adjacent to the site. Discussion of the site plan should identify existing bicycle and pedestrian infrastructure, existing and future desire lines, and a preliminary connectivity assessment.

- H. *Access spacing and circulation assessment* – Provide preliminary documentation as to whether site driveways will satisfy MassDOT access spacing standards. Include a preliminary circulation layout and connection plan that accounts for future development build out of the vicinity (document motor vehicle, transit, pedestrian, and bicycle connectivity as well as anticipated truck delivery routing). Consider opportunities for shared access and/or driveway consolidation within the site and/or with adjacent properties.
- I. *Safety* – Provide a preliminary assessment as to whether there are locations within the site influence area that are Highway Safety Improvement Program (HSIP)-eligible. An HSIP-eligible location is a location that is within the top 5 percent of crash locations for each Metropolitan Planning Organization (MPO) region (based on number and severity of crashes using the equivalent property damage only – EPDO). The HSIP-eligible clusters are highlighted on the maps contained in the following website link: <http://services.massdot.state.ma.us/maptemplate/TopCrashLocations> and identified as the latest year HSIP cluster (including bicycle, pedestrian, etc.). The TSL should also identify any locations where design or operations could pose a safety issue, based on the preparer’s best engineering judgment, irrespective of HSIP status or eligibility.
- J. *Parking* - Identify the anticipated number and type of parking spaces (to include automobile parking, bicycle parking, and preferential parking) and parking ratio, including a comparison to required minimum and maximum parking ratios for the site (if ratios are required) for both ITE and local municipality ratios (if available). Identify potential shared parking, on-street parking, and off-site parking opportunities.

The assumptions and plans presented in the TSL are understood to be preliminary and are likely to evolve during the development process. Minor changes made between the time a TSL has been reviewed and the TIA is submitted are acceptable as long as the changes do not alter the basic methodology presented in the TSL; the changes represent an improved understanding of conditions and needs; and the changes from the TSL are highlighted and justified. If there is information or feedback from stakeholders that is pending but not available for preparation of the TSL, the proponent should indicate in the TSL what is pending and how that information will be used in preparation of the TIA.

V. TIA SCOPING MEETING

At MassDOT's discretion, a scoping meeting with MassDOT may be held prior to preparation of a TIA. The scoping meeting is intended to allow MassDOT and the project proponent to obtain consensus to the study assumptions, data requirements, analysis periods, analysis methodology, and other key aspects prior to the project proponent preparing the TIA. This process ensures a common understanding and reduces the potential time and cost of preparing revisions to the TIA. As such, MassDOT strongly encourages proponents to request a scoping meeting. To provide the most benefit, the scoping meeting should be scheduled early in the process, well in advance of MEPA submissions for which the proponent is responsible.

Upon request, MassDOT will arrange and schedule a scoping meeting with the project proponent to discuss anticipated traffic impacts and the required TIA scope of work. MassDOT may invite representatives of MEPA, MassRides, the RTA, the RPA, the local agency(ies), the project proponent, affected municipalities, and other parties as appropriate. The purpose of this meeting is to:

- help the project proponent understand the MEPA and MassDOT access permitting processes;
- identify the modes of transportation to be evaluated;
- identify the analytical methodologies to be applied to the operations analysis of each mode;
- help the project proponent review their approach to maximizing the share of walking, transit, and bicycle trips and minimizing single-occupant vehicle trips;
- identify particular issues that the study will need to address (such as known safety, capacity, and/or connectivity considerations for each mode);
- identify required analysis periods (e.g. times of day, weekday, weekend, etc.);
- identify the design year and project phasing (if applicable);
- identify available transportation demand management programs, tools, and resources;
- define appropriate trip generation rate(s) and trip type(s);
- define trip distribution;
- define the study area;
- review MassDOT's requirements as they relate to the study methodology and assumptions; and,
- exchange other information and address the proponent's questions as needed.

After completing a scoping meeting, the proponent should submit an updated TSL to confirm the scoping meeting outcomes. MassDOT will review the proponent's final TSL and provide feedback in the form of a MEPA comment letter (if appropriate) or a memorandum that provides concurrence and/or comments on required changes to the scope of the TIA.

Section 3 – Analytical Procedures

This section describes the essential elements of a TIA beginning with definition of the study area limits and providing a summary of the analytical process and requirements.

Note that the Multi-Modal Level of Service Analysis (MMLOS) procedures highlighted in this document are relatively new and are expected to improve over time, allowing for more detailed analysis. MassDOT seeks to embrace the MMLOS concept and will incorporate MMLOS tools, procedures, and performance measures as they are successfully demonstrated and proven. Accordingly, future changes to the MMLOS analytical procedures and performance measures should be expected.

I. STUDY AREA

The TIA should describe the project study area and the multi-modal transportation system that serves the study area and provides access to the project site. The study area discussion should describe the major highways and roadways, intersections and interchanges, pedestrian facilities, bicycle facilities and access, and public transit network, as well as existing conditions of the systems, key issues, and any proposed projects or changes to the transportation network in the study area.

- A. Walking, bicycling, and public transit network, with specific attention to connectivity, desire lines, and gap analysis in order to maximize travel choices and promote these modes. Consideration should be given to the appropriate level of analysis for transit, walking and bicycling study areas.
- B. Driveways and public street intersections located along the proponent's project site development frontage should be included in the study.
- C. Intersections (to be assessed by approach) or roadway segments where site-generated trips increase the peak hour traffic volume by a) five (5) percent or more or b) by more than 100 vehicles per hour should be included in the study.
 - 1. Intersections or road segments meeting the five percent threshold may be exempted from study if:
 - a) In MassDOT's judgment, the intersection or segment operates acceptably today and site development impact will not cause a capacity or safety mitigation need; or
 - b) A mitigation for the intersection or segment has been previously identified and no further analysis is warranted (note that site-generated trip assignment may still be required for tracking or mitigation assessment purposes); or
 - c) Other reasons deemed appropriate by MassDOT.

2. Intersections or road segments that do not meet the five percent threshold may be included in the study area if:
 - a) In MassDOT’s judgment the intersection is highly congested/near or over capacity and prone to significant operational deterioration from even a small increment in traffic; or
 - b) The location is expected to have a significant impact to the state highway system; or
 - c) There are local municipality requirements that call for inclusion; or
 - d) There are special circumstances related to that location that merit review.

II. GENERAL TRAFFIC VOLUME DATA REQUIREMENTS

The TIA will be predicated on volume data obtained and/or collected by the proponent to reflect study conditions. Note that, to be deemed current, traffic volume data must be collected within two-years of TIA initial submittal.

A. *Turning movement count data:* The proponent shall conduct turning movement counts (TMCs) for all study intersections. In general:

1. One traffic count is required for each analysis period, unless otherwise specified.

Traffic volume counts should include motor vehicle, pedestrian, and bicycle movements. The counts should note whether pedestrian or bicycle movements are completed diagonally at intersections, instances of bicyclists riding on sidewalks, and midblock pedestrian crossings at location(s) where the number of crossings exceeds 15 pedestrians per hour.

2. Weekday traffic counts should be conducted on a “typical” Tuesday, Wednesday, or Thursday when school is in session (when possible) during weeks not containing a holiday. Data must not be collected during unusual weather events or other atypical circumstances, unless otherwise directed.
3. A weekend traffic count(s) may be required, when deemed appropriate (for example, religious institutions, sports or special event facilities, large commercial developments, tourist attractions, and other land uses may warrant a weekend analysis).

4. Upon approval, the timeframe for conducting traffic counts may be altered based on land use or seasonal variations.
- B. *Automated traffic recorder (ATR) counts* – The proponent shall conduct ATR counts at locations and time periods as needed.
1. All ATR counts conducted at the request of MassDOT shall conform to the MassDOT Highway Performance Monitoring System (HPMS) data collection format. This format calls for adherence to the guidelines and procedures mandated by the Federal Highway Administration’s (FHWA) Traffic Monitoring Guide, the FHWA’s HPMS Field Manual, and the AASHTO Guidelines for Traffic Data Programs.
- C. *Use of historical volume data* – Data taken from other sources should be no more than two years old (on the submittal date of the subject EENF or EIR/EIS) unless approved by MassDOT.
- D. *Analysis periods* – In general, the TIA should include weekday evening (typically one hour between 4:00-6:00 p.m.) peak hour analyses. Other peak hours (such as weekday morning from 7:00-9:00 a.m., midday from 11:00 a.m.-1:00 p.m., afternoon school dismissal peak hour, unique shift change periods, etc.) also may need to be studied based on the peak trip generation periods(s) associated with the proposed land use(s). In general, most retail studies include the weekday p.m. and Saturday midday peak (11:00 a.m.-1:00 p.m.), while most office / industrial / residential studies include the weekday a.m. and p.m. peak hours.
- E. *Volume data for signal warrant analysis* – MassDOT expects that any proposed traffic signal installation on State Highway will meet the eight-hour vehicular volume warrant (MUTCD Warrant 1). Accordingly, a minimum of eight-hour turning movement count data is required for justification of warrant analysis for proposed signal installation.
- F. *Heavy vehicle percentage* – The traffic volume data used in the analysis shall include the percentage of heavy vehicles reflected in the actual turn movement count data. The percentage may be applied on an approach-by-approach basis or by lane group, as necessary. For traffic counting and analysis purposes, heavy vehicles shall be defined as trucks having more than two axles or buses of any type, independent of axle configuration.
- G. *Adjustments* – All seasonal or other adjustments must be cited and their use fully justified.
1. When using historical counts, existing conditions volumes must be adjusted by a seasonal/growth rate and increased by any new traffic from developments that have been completed and/or approved since the time of the original count as necessary.

2. Existing conditions counts may also need to be adjusted if the project is located in a region that experiences a notable seasonal variation or is primarily retail. The basis for a seasonal factor should be addressed considering the direction of the MassDOT Traffic and Safety Engineering 25% Design Submission Guidelines available via the following link: <http://www.mhd.state.ma.us/downloads/trafficMgmt/FunctionalDesignReportGuidelines.pdf>.
- H. *Speed data* – Speed data may be required for purposes including, but not limited to, sight distance assessments, safety reviews, assessing community impacts, etc.
- I. *Transit service frequency* – Transit routes, stops, passenger loads (when available), frequency of service, and service operating hours shall be documented. If transit-based mitigation is proposed, then additional data may be required as documented in Section 3.VII, Quantifying Impacts Of Transit-Based Mitigation.
- J. *Planned Projects* – In addition to regional background, traffic associated with other projects under construction or in the planning process needs to be included in the No-Build condition projections. The planned projects need to be outlined in the TIA.

III. GENERAL ANALYSIS METHODOLOGY REQUIREMENTS

Unless directed otherwise during the MassDOT TIA scoping meeting, the following analysis methodologies shall be used for TIA preparation:

- A. *Signalized intersection capacity analysis* – Signalized intersection capacity analysis shall be conducted using an approved software package as noted on MassDOT’s most recent list of analysis tools (A Guide on Traffic Analysis Tools, available at <http://www.mhd.state.ma.us/downloads/trafficMgmt/TrafficAnalysisToolsGuide.pdf>) and per the requirements of the MassDOT Traffic and Safety Engineering 25% Design Submission Guidelines. Motor vehicle level-of-service, average delay, and volume-to-capacity ratios shall be calculated using procedures from the most recent edition of the Highway Capacity Manual (HCM), published by the Transportation Research Board. In addition, Multi-modal Level of Service Analyses (MMLOS) shall be prepared for pedestrians and bicycles using the most recent Highway Capacity Manual methodology. Proponents should note that use of traffic capacity analysis software evaluating traffic volumes passing through the intersection from each approach may not always be the appropriate analytical approach. For example, at signalized locations experiencing severe congestion and possible over-saturation (i.e., with demand exceeding capacity and approach queues unable to be processed in their entirety during a signal cycle), the proponent should employ an alternative

approach that may include counting of intersection approach volumes and floating car (or equivalent) delay calculations. At unsignalized high volume locations, gap acceptance surveys could be used as a checkpoint for operational values obtained using the HCM methodology. In these cases, MassDOT would recommend the appropriate assumptions, methodology, and software package to be used in conducting the analysis. It is the responsibility of the proponent, however, to identify when these conditions exist, and to work with MassDOT to develop alternatives.

1. *Traffic signal timing assumptions* – Optimized signal timings may be allowed for future operational analysis purposes, but only at MassDOT’s discretion. When approved for use, optimized signal timing assumptions should be clearly identified on the analysis worksheets for clarity.

- B. *Stop- and yield-controlled intersection capacity analysis* – Capacity analysis for stop and yield-controlled intersections shall be conducted using an approved software package as noted on MassDOT’s most recent list of approved traffic analysis tools ([A Guide on Traffic Analysis Tools](#), available at <http://www.mhd.state.ma.us/downloads/trafficMgmt/TrafficAnalysisToolsGuide.pdf>) and per the requirements of the [MassDOT Traffic and Safety Engineering 25% Design Submission Guidelines](#). Motor vehicle level-of-service, average delay, and volume-to-capacity ratios shall be calculated using procedures from the most recent edition of the [Highway Capacity Manual](#), published by the Transportation Research Board.

- C. *Roundabout analysis* – Capacity analysis of roundabouts shall be conducted using an approved software package as noted on MassDOT’s most recent list of approved traffic analysis tools ([A Guide on Traffic Analysis Tools](#), available at <http://www.mhd.state.ma.us/downloads/trafficMgmt/TrafficAnalysisToolsGuide.pdf>) and per the requirements of the [MassDOT Traffic and Safety Engineering 25% Design Submission Guidelines](#). Motor vehicle level-of-service, average delay, and volume-to-capacity ratios shall be calculated using procedures from the most recent edition of the [Highway Capacity Manual](#), published by the Transportation Research Board. Roundabouts should be evaluated where feasible (based on right-of-way availability and abutting land uses) as an alternative to the installation of a traffic signal.

- D. *Freeway facility analysis* – Capacity analysis of freeway facilities (including elements such as basic freeway segments, ramp segments, and weaving segments where required) shall be conducted using HCM methodology or the latest approved software package as noted on MassDOT’s most recent list of approved traffic analysis tools ([A Guide on Traffic Analysis Tools](#), available at <http://www.mhd.state.ma.us/downloads/trafficMgmt/TrafficAnalysisToolsGuide.pdf>) and per the requirements of the [MassDOT Traffic and Safety Engineering 25% Design Submission Guidelines](#).

- E. *Urban street facility and segment analysis* – Pending MassDOT scoping direction, MMLOS analyses should be prepared for motor vehicles, pedestrians, bicycles, and transit using the most recent edition of the Highway Capacity Manual analysis, published by the Transportation Research Board.
- F. *Safety analysis* – Safety analysis shall be prepared per the requirements of the MassDOT Traffic and Safety Engineering 25% Design Submission Guidelines. Collection and analysis of crash records for all corridors and intersections within the study area is required. The crash data should be based on the latest 5 years of data available (preferred) or the latest 3 years of data available (minimum). MassDOT crash data should be buttressed with local records, to the extent possible based on the availability of local data. Calculation of the study area intersection(s) and segment(s) crash rates, as applicable, are required and shall be compared to the MassDOT District and State-wide average crash rates. Collision diagrams shall be based on actual crash reports with crash diagrams and narratives and shall be completed for all study area intersections with more than 3 crashes per year unless otherwise directed by MassDOT. Intersection safety narratives shall discuss potential crash causes and potential remedies.
1. Consideration shall be given to (but not limited to) the items listed in the Safety Review Prompt List (<http://www.mhd.state.ma.us/downloads/trafficMgmt/SafetyReviewPromptList.pdf>) during a site visit. Discussion shall be included in the TIA regarding the safety evaluation.
 2. If all or a portion of the project area is considered HSIP-eligible, the Safety Review shall be replaced with a Road Safety Audit (RSA) for the specific area. The Road Safety Audit shall be conducted in accordance with MassDOT Road Safety Audit Guidelines and shall be conducted prior to developing the 25% Design Plans. Completion of the RSA at the earliest project stages will help identify the most appropriate improvements and ideally would be performed prior to the TIA but is not required prior to TIA submittal. RSAs shall be completed prior to the Section 61 finding.
- G. *Traffic signal warrant analysis* – This analysis must be performed whenever new traffic signals are proposed, using the most recent edition of the Manual on Uniform Traffic Control Devices Handbook, including the Massachusetts Amendments.
1. *Traffic data*: Per the MassDOT Traffic and Safety Engineering 25% Design Submission Guidelines, the traffic count data for the major-street and the minor-street approaches shall be collected and analyzed for a minimum of the highest-volume 8 hours of the day.

The minor-street volume shall be conducted by manual turning movement count method. The volume data should be shown in tabular form for review.

- H. *Queue length analysis* – Both 50th (average) and 95th Percentile Back of Queue calculation results shall be summarized per the requirements of the MassDOT Traffic and Safety Engineering 25% Design Submission Guidelines. A standard vehicle length of 25 feet should be used, unless data can be provided to support an alternate length. The TIA should include graphical representation of 50th and 95th percentile queue lengths at select study intersections if required during the scoping process.
- I. *General Criteria for Turn lanes*– Where required by MassDOT, the need for left-turn lanes and/or right-turn deceleration lanes must be assessed based the criteria of the MassDOT Project Development and Design Guidebook.

IV. PERFORMANCE MEASURES & GOALS

Transportation system performance presented in TIAs will be reviewed considering safety and operations analysis methodologies for each mode of travel within the study area based on the following criteria:

- A. Safety
 - 1. If a proponent's trips impact an intersection or segment that has a crash rate higher than the statewide average crash rate for comparable intersections or segments, the proponent must assess options to mitigate the safety condition. The proponent should determine if all or a portion of the study area is identified as HSIP-eligible. If the location is HSIP-eligible, a road safety audit (RSA) must be conducted prior to the issuance of the Section 61 Finding to ensure that any resulting mitigation is identified before 25% design plans are submitted to MassDOT.
 - 2. The TIA should also identify any locations where design or operations could pose a safety issue, based on the preparer's best engineering judgment, irrespective of HSIP status or eligibility, and identify potential remedies.
- B. Vehicular Operations
 - 1. If a proponent's trips result in a level of service (LOS) degradation, a development will be considered to have had an impact and the proponent must assess options to mitigate the impact.
 - a) Even if LOS doesn't drop, MassDOT may still find a development has a significant impact (for example, pre-development might be LOS D and post-development might be LOS D but with another 10 seconds of delay).

- b) Impacts to elements of the transportation system (e.g. intersections, ramp terminals) are generally determined by the technical analysis described above (e.g. vehicular operations at intersections, safety assessment of crashes). This analysis typically indicates when impacts result from the proposed development, but the location and mode of the impact does not necessarily dictate the optimal location or mode for mitigation. The proponent is encouraged to work closely with MassDOT to determine the best locations and modes to target for mitigation.
2. The proponent should highlight signalized intersections that operate at LOS E or F in suburban and rural areas (considered to be isolated areas with populations less than approximately 30,000). The proponent should ensure that a range of mitigation opportunities are reviewed for these locations and is encouraged to meet with and discuss options with MassDOT staff at the appropriate time prior to finalizing the TIA.
3. The proponent should highlight signalized intersections that operate at LOS F in urban areas. The proponent should ensure that a range of mitigation opportunities are reviewed for these locations and is encouraged to meet with and discuss options with MassDOT staff at the appropriate time prior to finalizing the TIA.

C. Bicycle, Pedestrian, and Transit Modes

1. The TIA should include an assessment of the mode split assumptions, as well as the proponent's plan to maximize travel choice, promote non-SOV modes, and achieve the assumed mode shares.

If a facility is impacted by a proponent's trips and the facility has an access or accommodation deficiency in the mode under review (bicycle, pedestrian, transit), the proponent must assess options to facilitate safe, convenient, and attractive access via these modes.

2. In locations where pedestrian facilities are not available, the proponent shall evaluate and document pedestrian needs, desire lines, and opportunities to provide pedestrian infrastructure.
3. In locations where bicycle facilities are not available, the proponent shall evaluate and document bicycle needs, desire lines, and opportunities to provide bicycle infrastructure.

In locations where transit facilities are not available, the proponent shall evaluate and document needs, origins and destinations, and opportunities to provide transit service.

4. When required, the MMLOS applications for signalized/unsignalized intersection analyses, urban arterials facilities, and roadway segments should be used for informational purposes to aid MassDOT and the proponent in understanding relative impacts to the modes assessed.
 - a) Where required, Transit MMLOS shall be assessed by stop. For MMLOS reporting purposes, if there is no existing fixed-route transit service in the study area, the transit MMLOS should be reported as “no service” to distinguish it from a situation where service exists but is poor (e.g. LOS F).
 - b) Where required, bicycle and pedestrian MMLOS shall be assessed by both segment and intersection for each direction of travel. For MMLOS reporting purposes, if there are no existing bicycle or pedestrian facilities in the study area, the respective MMLOS should be reported as “no facilities” to distinguish it from a situation where facilities exist but operate at poor LOS.

V. TRIP GENERATION

Trip generation involves the estimation of the number and type of trips associated with the land use(s) proposed by the proponent. In preparing trip estimates for a proposed development, the proponent should be guided by the following principles:

1. Trip rate and trip type should be selected to best reflect the anticipated trip generation of the proposed land use(s) and the available/proposed multi-modal transportation system in the study area.
2. *MassDOT’s Mode Shift Initiative* has established a statewide mode shift goal of tripling the share of travel in Massachusetts by bicycling, transit and walking.
3. All elements of the analysis and the project proposal – trip generation, mode split, trip distribution, adjustment factors, parking, siting, availability of non-auto modes, mitigation, TDM, etc. – must be consistent with each other. The assumptions and calculations for the trip generation analysis must be delineated so that this is readily and clearly understood.
 - A. *ITE rates* – A trip generation analysis must be presented that uses unadjusted (no reductions for trip type or internal trips) Institute of Traffic Engineers (ITE) rates for the appropriate land use code, from the most recent edition of Trip Generation. Rates should be developed from the “fitted curve” equations when available and appropriate, and used according to the methods outlined in Trip Generation Handbook, latest edition. Rates derived from the most applicable independent variable (e.g. square feet, number of employees, acres, etc.) should be used.

The trip generation section of the TIA should include a brief discussion of the data and rates available in the Trip Generation Handbook, the rate used for the unadjusted trip generation, and the rationale for its use.

- B. *Alternative rates* – An analysis using alternative rates may be presented under the following conditions or for the reasons listed below. In all cases, the use of alternative rates must be thoroughly justified, their appropriateness fully explained, and their source(s) cited.
1. If there are no applicable ITE Trip Generation rates.
 2. If the sample size on which the ITE Trip Generation rates are based is prohibitively small.
 3. If the description of the ITE Trip Generation Land Use Code does not resemble the description of the proposed project, despite being similar in name.
 4. If the description of the studies used to derive ITE Trip Generation rates does not resemble the characteristics of the proposed project, including its surrounding land use context.

A sample size of at least three similar sites is desirable when introducing alternative data, unless the empirical trip rate measured is the actual existing use of the site.

- C. *Vehicular trip rate reductions* – Reductions to vehicular trip generation estimates associated with Trip Type shall be calculated in accordance to the ITE Trip Generation and the Trip Generation Handbook as well as Section VI below. Each reduction must be explained in full and accounted for in a table that summarizes the trip generation approach. Shared trips between mixed uses should be estimated following industry best practices.
- D. *Multi-modal trip generation estimates* – The trip generation section should include estimates of trips by mode. These estimates should be informed by the availability of public transit, walking, and bicycling infrastructure and/or services, and should be based where possible on recognized data sources such as US Census data, regional travel data, transportation survey data, etc.

Requirements to estimate the number of net new trips generated as pedestrian, bicycle, and/or transit, and appropriate data sources, should be proposed in the TSL and approved by MassDOT prior to submittal of the TIA for MassDOT review (in the case of rail facilities, data sources should include the MBTA).

VI. TRIP TYPE AND DISTRIBUTION

- A. *Site-generated trips* – All vehicle-trips to or from the site through all access points must be documented and trip type must be considered, according to the applicable land uses, as outlined in the latest editions of Trip Generation and the Trip Generation Handbook. Analytic bases for reducing the site-generated motor vehicle volumes because of trip type must be documented.
- B. *Trip type* – The following types of trips are documented in the ITE Trip Generation Handbook and should be considered for all projects:
1. *Primary trips* are made for the specific purpose of visiting the site. This type of trip typically travels from the origin to the generator and then returns to the origin.
 2. *Internal trips* occur among multi-use developments and are trips “not made on the major street system.” Internal trips, if present, must be subtracted out before pass-by trip reductions are applied.
 3. *Pass-by trips* are made as intermediate trips on the way from an origin to a primary trip destination and do not require a route diversion from another roadway. Pass-by trips are new at the site driveway but are not new on the adjacent roadway. The number of pass-by trips is calculated after accounting for internal trips (Total Site Trip Generation – Internal Trips = External Trips; then apply pass-by reduction to External Trips).
 4. *Diverted linked trips* require a route diversion from one roadway to another to reach the site. Diverted linked trips are new to both the site driveways as well as the roadway(s) on which they divert.

Trip Type Notes:

Internal trip rates will vary based on the proposed land use type and size, as well as the context of the surrounding area. For example, transit-oriented developments in an urban area would generally be expected to have a higher internal trip rate than a mixed use development proposed in a rural area.

Data on internal trip rates is evolving and the most recent resources available should be used to document potential internal trip impacts. In addition to locally collected empirical data, two potential resources to consult include: 1) the ITE Trip Generation Handbook, which provides general guidance for estimating internal trip capture between land uses, and 2) the National Cooperative Highway Research Program (NCHRP) Research Report 684 (Enhancing Internal Trip Capture Estimation for Mixed-Use Developments).

Pass-by trip rates should be based on the average pass-by rate obtained from the most recent edition of the ITE Trip Generation Handbook.

The number of pass-by trips must not exceed 15 percent (15%) of the adjacent street traffic volume (street volume prior to site development) during the peak hour per ITE's Transportation Impact Analyses for Site Development.

Diverted linked trip reductions will only be allowed in situations where the project proponent and MassDOT agree that the use of diverted trips can be adequately documented and accounted for.

C. *Trip distribution* should be based on the following three methods:

- Existing traffic patterns
- Gravity model
- US Census Data

1. The TIA must include a description and diagram of the anticipated trip distribution pattern and trip assignment to the study intersections, including assumptions made. Information regarding the gravity model methodology and assumptions must be documented in the TIA.

VII. QUANTIFYING IMPACTS OF TRANSIT-BASED MITIGATION

- A. The following procedures may be followed to quantify the impacts of transit-based mitigation in situations where buses, trains, or boats are well-utilized and/or the development would generate larger numbers of transit trips. Note that the list of procedures is not meant to be limiting – other acceptable methods may be determined in coordination with the local RTA and MassDOT.
1. Estimate the site's inbound and outbound transit ridership for the study hours and assign by direction and route (method to be determined in coordination with the local RTA and MassDOT).
 2. Estimate the resulting change in average dwell time using the most recent edition of the Transit Capacity and Quality of Service Manual (TCQSM) and knowledge of the transit agency's current fare collection method(s).
 3. Estimate current ridership (from transit agency data or by doing a through-the-window check (e.g., lots of open seats, seats mostly filled, a few standees, etc.)).
 4. Calculate bus speeds pre- and post-development based on changes in average intersection delay and the additional dwell time already calculated. Calculate transit MMLOS based on the calculated bus speeds and crowding levels.
 5. Calculate transit MMLOS incorporating the effects of mitigation strategies.

Section 4 – Mitigation

This section provides an overview of the mitigation analysis process and typical mitigation measures that may be considered. The proponent is required to propose and justify recommended project mitigation based on the context of the project, the location, existing conditions, and other relevant considerations. MassDOT will review and consider the recommended mitigation and will then determine the mitigation required of the project.

I. MITIGATION ANALYSIS

- A. If a proposed development (1) may cause the operations and efficiency of a transportation facility to measurably degrade (as determined through consultation with MassDOT), (2) adds vehicle trips to a facility that is already performing with poor operating characteristics (e.g., having at least one lane group and/or turning movement at or below LOS D in rural areas and LOS E in urban areas), or (3) attracts trips to a site that fails to provide adequate pedestrian, bicycle, or public transit access, the proponent is required to commit to a mitigation program that demonstrates the following:
1. The proponent has identified and evaluated a set of potential mitigation alternatives, including improvements to pedestrian, bicycle, and public transit access, as well as a range of geometric and operational improvements for traffic. The TIAS should include a discussion of these alternatives that have been considered for each applicable element of the transportation system.
 2. The committed program mitigates the impacts of the proposed development in a manner that enhances walking, bicycling, and public transit access to the project site and avoids further degradation to the traffic performance of the transportation system by the time of development in a manner that meets the following conditions:
 - a) The transportation impacts of the proposal are mitigated to the most practical degree possible through transportation improvements or measures that directly address the transportation impacts of the development and/or the inadequacy of walking, bicycling, or public transit access,
 - b) An effective transportation demand management (TDM) program is prepared and fully funded, and
 - c) The overall benefits of the development outweigh its unresolved impacts.

- B. *Primary analysis* – For all mitigation measures, capacity analyses must be performed as previously outlined in these guidelines and the results shown in tabular form. Any future year performance degradation under the Build scenario must be fully mitigated to the extent feasible. The effects of all mitigation measures, including such measures as transportation demand management activities, should be quantified, and the analytical bases documented.
- C. *Additional analyses* – All mitigation measures must be analyzed at a preliminary screening level for impacts on wetlands, archeology, abutting landowners, storm water, impaired water bodies, etc., to determine the feasibility of their implementation. The need for additional highway right-of-way to implement the proposed improvements must be documented and anticipated design exceptions must be noted and explored in the TIA to assess feasibility.
- D. *Implementation commitment* – For each mitigation measure, the manner in which responsibility for implementation will be established and documented must be described (including clear identification of responsible parties), and the duration of responsibility specified, where applicable. The individual costs of the proposed mitigation measures must also be given. A schedule of when, in relation to any project phasing, particular measures are proposed to be implemented must be outlined. Any agreements or permits that would be needed to implement proposed measures must be documented. Interim mitigation should be proposed when appropriate.

A monitoring program completed by the proponent must be established in close coordination with MassDOT and provided on an on-going basis as appropriate for the mitigation measure. Section 6 of this document addresses monitoring requirements.

- E. *Conceptual design plans* – Any conceptual mitigation design plans included in the TIA must meet the following criteria:
1. a standard engineering scale must be used;
 2. proposed geometric changes and widening (driveways, storage lanes, acceleration/deceleration lanes, bicycle lanes, sidewalks, etc.) must be clearly depicted over existing conditions;
 3. existing and proposed layout lines, building footprint(s) and uses, property lines, parking lot areas, driveways, and the relation of the proposed site to existing rights-of-way and adjacent land uses must be clearly depicted;

4. the conceptual design plans must show the location of any impacted wetlands and any proposed changes in traffic control (such as signalization, roundabouts, etc.);
5. dimensions and geometry of travel lanes, shoulders, bike lanes, and sidewalks must be provided;
6. a construction baseline must also be included;
7. discussion of adherence to MassDOT's Complete Streets principles must be provided; and,
8. discussion of how the site plan has been designed to encourage mode shift and to maximize convenience of walking, biking and transit trips must be provided.

II. STRATEGIES & OPTIONS

This section identifies a range of potential mitigation measures. The measures listed in this section could be proposed individually or in combination. Other alternative measures may be considered.

- A. *Pedestrian/Bicycle* – In addition to accommodating pedestrians and bicycles as part of roadway improvement mitigation, pedestrian and bicycle improvements may be considered as potential mitigation measures, particularly higher levels of design and accommodation that could reduce the number of study area-generated vehicle-trips. Pedestrian facilities shall include sidewalks, traffic control devices, curb cut ramps, and other elements. Bicycle improvements may include separated shared-use paths, widened roadway surfaces (either reserved bicycle lanes or wide outside lanes with “sharrows” for bicycle use), traffic control devices, and other elements. Secondary negative impacts of roadway mitigation measures on pedestrian or bicycle infrastructure, such as crosswalks and roadway shoulders, must be avoided, minimized, and/or mitigated themselves. The appropriate MassDOT District should be consulted to ensure feasibility of proposed improvements and/or mitigation (in some Districts, this discussion will be facilitated by the District Pedestrian/Bicycle Coordinator and District Complete Streets Coordinator).
- B. *Transit service* – Transit service improvements must also be considered to reduce the number of study area-generated vehicle-trips. If a proponent proposes transit service mitigations, they must coordinate on ridership projections (vehicle trip reductions) with the local regional transit authority (RTA) or other transit service provider (e.g. transportation management association, local shuttle provider, local council on aging, etc.). Transit service improvements may include, but are not limited to:

1. providing facility enhancements including, but not limited to, shelters, bus turnouts, exclusive bus lanes, real-time travel information, etc.; and/or
2. enhancing existing or proposed service (documentation will be required demonstrating the transit route, travel time, frequency, service periods, etc.).

Refer to Section 3.VII. Quantifying Impacts Of Transit-Based Mitigation, for additional details.

- C. *Parking* – Proponents who reduce parking below locally-required minimum parking standards (or parking guidance included in ITE Parking Generation, through TDM techniques or other means, may be eligible for a corresponding reduction in assumed vehicle trip generation.¹
- D. *Development Options/Sustainable Development Goals* – The Commonwealth has identified 10 Sustainable Development Goals – desirable smart growth/smart energy strategies that, in part, include concentrating development and mix of uses as well as providing transportation choices. Projects may achieve mitigation in part by embracing the concepts in the Commonwealth’s Smart Growth/Smart Energy toolkit. For example, modifying the size or density of the project, altering land uses, incorporating transit-oriented-design features, providing bicycle and pedestrian infrastructure, and other related options may be incorporated into a proponent’s traffic mitigation package
- E. *Fee-in-Lieu/Mitigation Bank* – MassDOT, at its discretion, may accept financial payment in lieu of direct investment in facility and/or service improvements. To exercise this option, the proponent and MassDOT will first need to reach agreement as to the financial value of the appropriate mitigation required. The proponent would then make a financial contribution to an established MassDOT mitigation bank that will fund an improvement in the future. Where appropriate, potential uses of the mitigation bank might include, but are not limited to:
- Proportional funding of a larger system improvement (e.g. new interchange, future roadway widening, etc.)
 - Transit system enhancements
 - Traffic signal system enhancements (e.g. signal coordination, transit signal priority, etc.)
 - Intelligent Transportation System projects (e.g. provision of changeable message signs, traffic cameras, real-time information systems, traffic management center, etc.)

¹ The potential for achieving capacity mitigation through parking reductions presumes that the proponent has secured local approval to reduce parking below locally-required parking minimums. This mitigation option does not imply that MassDOT has regulatory authority over locally adopted parking requirements.

- Roadway connectivity improvements that shift demand off of critical roadways
 - Pedestrian or bicycle system improvements that close gaps, provide direct connections to transit service, and/or shift demand off of critical roadways
 - Development and implementation of an access management plan for the study area.
- F. *Transportation Demand Management (TDM) Program* - Developments that require a MassDOT permit are required to implement a TDM program. Detailed TDM program information is presented in Section 4.III below.
- G. *Roadway improvement* – Roadway improvements may improve transportation capacity, circulation connectivity, and/or safety. Potential roadway improvements should consider all users. Pedestrian and bicycle accommodation must be considered as part of any roadway improvement mitigation. If bicycle lanes, shoulders of adequate width for bicycling, or wide outside lanes with “sharrows” are not provided, the proponent may be required to prepare a Design Exception Report or documentation for the MassDOT Complete Streets Engineer, which must identify the reasons for not providing this accommodation. A design exception is granted at MassDOT’s discretion.

III. TRANSPORTATION DEMAND MANAGEMENT PROGRAMS

Transportation Demand Management (TDM) is a broad-based approach to improving transportation access and mobility that, as the name suggests, focuses on reducing or managing the demand for scarce transportation system resources, rather than on increasing the capacity (or “supply”) of a scarce transportation resource. In most instances, the scarce transportation resource is mobility and system capacity for motor vehicles, in particular during peak commuting periods. Therefore, TDM programs are designed to reduce motor vehicle travel demand (especially during peak periods) and enable the transportation system to function more effectively and efficiently through measures that shift passengers to travel modes other motor vehicles; increase the number of passengers in motor vehicles; change the time of travel to periods of lower system demand; and eliminate the need for some trips altogether.

In addition to reducing traffic congestion and potentially delaying or eliminating the need for costly roadway system expansion, TDM programs have a number of corollary benefits. These benefits include reducing greenhouse gas (GHG) emissions that contribute to climate change, providing travelers with active transportation options can promote improved health, and reducing transportation-related costs for travelers.

- A. The project proponent is expected to implement a TDM program that includes measures, extent of commitment, and degree of aggressiveness that are compatible with the proposed land use and the geographic context, and that are commensurate with the proponent’s assumptions

about mode split and internal trip capture. The proponent should conduct discussions with the affected municipalities, MassRIDES, the area TMA and/or other applicable parties prior to the preparation of a TIA, and should include specific TDM measures to reduce site-generated traffic. The TIA should include specific, measurable TDM commitments, which will be tracked and monitored through the project Transportation Monitoring Program.

- B. The proponent should implement a TDM plan that includes the following measures. If the proponent feels that one or more of these measures is not applicable based on land use type or geographic location, then the proponent's filings should address this and explain why such measures are not included.

1. Infrastructure Improvements

a) Complete Streets

- Any proposed mitigation measures within the state highway layout must be consistent with a Complete Streets design approach that provides adequate and safe accommodation for all roadway users, including pedestrians, bicyclists, and public transit riders. Guidance on Complete Streets design guidelines is included in the *MassDOT Project Development and Design Guide*. Where these criteria cannot be met, the proponent should provide the justification as to the reason why, and should work closely with the MassDOT Highway Division to obtain a design waiver.
- Sidewalks and bicycle accommodations on internal roadways, with connections to adjacent pedestrian and bicycle networks.
- Site design that facilitates connectivity and permeability of the site to adjacent areas, at a minimum for pedestrians and bicyclists.

b) Transit

- Provision of a bus stop, bus pullout, and/or bus shelter on site, as requested by the local transit provider.

c) Bicycle

- Provision of secure, weather-protected bicycle parking for residents and employees.
- Provision of publicly-accessible, highly-visible bicycle parking near building entrances for retail customers and visitors.
- Sponsorship of a bike share service to facilitate installation of a new or expanded bike share station.

d) Parking Accommodation

- Reduction of parking supply to reduce single-occupancy vehicle (SOV) trips; this should include reduction of the parking supply through consideration of “shared parking,” in which different land uses with complementary parking demand profiles (e.g. office and residential) enable a reduction of overall parking supply. The parking supply should also reflect the internal capture rate included in the trip generation analysis; the proponent must show calculations of parking reduction based on the internal capture rate.
- Provision of preferential parking spaces for carpools and vanpools.
- Provision of preferential parking spaces for low-emission vehicles.
- Provision of parking space(s) for a car-sharing service to facilitate reduced vehicle ownership.
- Provision of electric vehicle (EV) charging stations with parking reserved for EVs, and provision of infrastructure that would allow for expansion of EV charging stations as demand grows.

e) Internal Building Accommodations

- Provision of showers, changing rooms, and locker facilities for on-site employees.
- Provision of on-site amenities including food service, kitchen facilities, mail drop center, and other amenities that can reduce the need for employees to make midday convenience trips by automobile.

2. Incentive, Information, and Encouragement-Based Measures

a) General TDM Support

- Designation of a full-time, on-site employee as Transportation Coordinator who will be responsible for implementation of the TDM program and for the TDM monitoring.
- Membership in the local Transportation Management Association (TMA) if the development is within that TMA’s service area, or if a nearby TMA could be expanded to include the development.

- If the development is not within a TMA service area, participate in MassRides, the Commonwealth’s travel options service.
 - Coordination with MassRides or the local TMA in order to support TDM program development prior to the submission of a TIA.
 - Through the TMA or MassRides, provision of the following TDM services, as applicable:
 - Provision of a guaranteed ride home program.
 - Dissemination of information about the TDM program to employees through web-based information, print materials, and promotional events.
 - Subsidy, promotion, and participation in any shuttle services.
 - Support for ride-matching, carpooling, and other greener modes of transportation through the active promotion of NuRide, the Commonwealth’s web-based trip planning and ride-matching system that allows users to earn rewards for taking greener trips.
- b) Travel Information
- Provision of comprehensive information (through print materials, an orientation packet, and/or a development website, as appropriate to the proposed development) with information on multimodal transportation options for residents, retail and office tenants, and retail and office employees.
 - Provision of maps and information about public transit, walking and bicycling options in a visible and permanent location.
- c) Employee Benefits
- Provision of subsidized transit passes to employees.
 - Provision of pre-tax payroll deduction for transit passes to employees.
 - Provision of vanpool subsidies to employees and/or tenants.
 - Allow employees to pay for vanpool fares through pre-tax payroll deductions.
 - Accommodation of alternative work schedules and arrangements, including support for flexible/staggered work hours, compressed work weeks, and telecommuting.
 - Management of work shifts to coordinate with the availability of public transportation.
 - Provision of direct deposit for employees.

d) Parking Management

- Market-rate parking fees to reduce SOV trips.
- “Unbundling” of parking costs from other charges (e.g. rental charges or home purchase price), requiring that parking spaces be leased or sold separately.
- Management of SOV travel through the implementation of a parking pass program.
- Provision of parking “cash out” for employees who do not use on-site parking.

e) Public Transit Service

- Coordination with the local public transit provider on opportunities to enhance transit service to the project prior to the submission of a TIA.
- Financial support to enable bus route extension or service frequency enhancement for the project site.

Section 5 - TIA Report Requirements

This section documents information that should typically be provided in the TIA report and appendix materials. The TIA must include documentation of key information as may be adjusted or amended per the Office of Energy and Environmental Affairs ENF Certificate, MassDOT TIA Scoping Meeting, or other communication from MassDOT or the MEPA Office.

I. TIA CONTENTS

A. Introduction

1. *Project description* – Provide a description of the proposed project and the study area. The boundaries of the study area must be as defined and documented in the Certificate of the Secretary of Energy and Environmental Affairs on the ENF for the project. The total anticipated build-out of the project, how it will be phased (as appropriate), and a detailed description of the proposed land use(s) (including specific tenants, if known) must be clearly stated.
2. *Locus maps* – Show the regional and local context of the project with the following maps.
 - a) *Site plotted centrally on the USGS map.*
 - b) *Site plotted in accordance to the MassDOT Road Inventory Maps on the MassDOT Regional Series map, with the study area boundary shown. Note: Similar maps from other providers will be accepted.*
3. *Site plan* – Indicate the proposed “footprint” of the project relative to existing site conditions, the boundaries of all land owned by the proponent, the abutting land uses and their owners, and all transportation facilities (including private and access roadways, sidewalks, public transit stations/stops/routes, and bicycle facilities) adjacent to the site. Topographic features that may impact the overall development potential of the site should be depicted. A standard engineering scale must be used and noted on all maps.
4. *Zoning map* – Indicate the current zoning of the site and the adjacent parcels. Any proposed changes in zoning must be described relative to the potential full development of the site. A brief summary of the applicable zoning regulations and requirements must be included.

B. Existing Conditions Assessment

1. *Roadway network* – Provide a map indicating the jurisdictional responsibility for each roadway link and intersection within the study area. For each study intersection, identify current lane configurations and traffic control devices.
2. *Multi-modal network* – Provide a map illustrating the site in relation to the study area pedestrian, bicycle, transit, and freight network. Also identify major attractors such as schools, neighborhood or regional commercial facilities, regional employment, etc.
3. *Pedestrian facilities review* – Identify existing pedestrian facilities, including a qualitative assessment of sidewalk condition, sidewalk width, the presence of sidewalk ramps, marked and signalized pedestrian crossings, and the presence of lighting.
 - a) *Pedestrian volumes* - Provide a pedestrian traffic flow map illustrating pedestrian volume data for the study area.
 - b) *Bicycle facilities review* – Identify existing bicycle facilities including documentation of marked existing bike lane(s), separated bikeways (multi-use path, cycle track, etc.), pavement markings (sharrow/other), shoulders, signage, and other relevant bicycle accommodations (e.g. width of shoulders and whether they are usable for bicycling, width of outside lane and whether it can serve as a shared lane), as well as general pavement condition/challenges and the presence of lighting.
 - (1) *Bicycle volumes* - Provide a bicycle traffic flow map illustrating the bicycle volume data for the study area.
 - (2) *Bicycle Parking* – Provide a map of existing bicycle parking within ¼-mile of the project site.
4. *Transit facilities review* – Identify bus routes within ½ mile, park-and-ride facilities within one (1) mile, and commuter rail stations within five (5) miles of the development, including the route and stop location(s). Note transit facility infrastructure, signage, connectivity to sidewalks/other facilities, and the presence of lighting at stops.
 - a) *Transit service information* – Provide a summary of the overall service route, service hours (start and end times by day for weekdays and weekends) and service frequency. Note transit priority treatments as applicable. Include RTA-provided ridership by route and time of day, if required.

1. *Freight network* – Identify designated freight facilities, freight destinations and/or documented truck routes within the study area.
2. *“Transportation Options” services review* – Provide a summary of available transportation option services such as (but not limited to) Transportation Management Association(s), MassRides, trip reduction services through employers, commuter trip reduction programs, car sharing programs, etc.
3. *Multimodal connectivity analysis* – Qualitatively identify connectivity gaps for the motor vehicle, pedestrian, bicycle, and transit modes in the site vicinity. Summarize the findings with maps, tables, and/or text, identifying the location and extent of gaps for each mode.
4. *Motor vehicle volumes* – Provide a traffic flow map illustrating the required daily and/or peak hour motor vehicle traffic volume data.
5. *Safety analysis* – Provide a summary of the safety analysis documenting crash analysis, collision diagrams, and collision mapping per Section 3.III.F, General Analysis Methodology Requirements.
6. *Operational analysis* – Provide a summary of existing conditions operational analysis results documenting intersection motor vehicle capacity and MMLOS analysis for pedestrian, bicycle, and transit modes per Sections 3.III.A through E, General Analysis Methodology Requirements. Where required by MassDOT, weave, merge, diverge, ramp, and road segment analyses shall be included.
7. *Queue length analysis* – Provide a summary (tabular and graphic) of the 50th (average) and 95th Percentile existing Back of Queue calculation results (including a summary of available queuing capacity) per Section 3.III.H, General Analysis Methodology Requirements.

C. Future Conditions Assessment

1. Future conditions in the TIA shall cover at least a seven-year time horizon from the filing date of the subject project EENF or EIR. Other time horizons may be required, depending on the nature, location, and/or scheduling of the project, the magnitude of proposed mitigation measures, and the responsibility and schedule for their implementation. The seven-year period replaces the previous five-year time horizon. It is intended to incorporate a “built-in” time allowance for projects completing the MEPA process before applying for a Vehicular Access Permit and/or designing mitigation. In that regard and with due consideration to the typical length of the MEPA process, a project could then proceed to preparation of a Functional Design Report (FDR) without any requirement for updated traffic volumes or analysis.

It should be noted that FHWA review is mandated when a project involves potential impacts to interstate highway interchanges and ramps. A time horizon of 20 years is required by FHWA in such cases. Time horizon(s), growth rates, accounting for in-process developments, and planned transportation improvements shall be determined based on consultation with the appropriate Regional Planning Agencies, RTAs, MassDOT District Offices, and the local communities.

- a) *No-build condition* – Traffic volumes and turning movement counts at study area intersections must be shown graphically for the No-Build scenario. These volumes must account for:
 - (1) General background growth associated with overall population and employment trends in the study area and surrounding region, based on consultation with the appropriate Regional Planning Agency, the Central Planning Transportation Staff, and municipality.
 - (2) In-process development – Estimated vehicular trips for all other developments within the study area that are not yet complete and generating trips, but that have received:
 - (a) local approval(s), where state approvals are not required, within two years from the filing date of the subject Expanded ENF and/or EIR/EIS;
 - (b) a certificate from the Secretary of EOEEA on an ENF, where no additional MEPA review was required, within two years before the filing date of the subject Expanded ENF and/or EIR/EIS; OR,
 - (c) a certificate from the Secretary of EOEEA finding an SEIR, a DEIR or FEIR to be adequate, within two years before the filing date of the subject documents.

Traffic volumes associated with these study area projects must be taken directly from the relevant environmental documents, or in the absence of such data, must be estimated using the methodology as outlined in Section 3.V, Trip Generation.

- b) *Build without mitigation condition* – Trips for the proposed project must be added to the No-build volumes to generate Build Without Mitigation volumes, and the results shown graphically. This analysis must include documentation of all modes.

- (1) If alternative trip generation rates are to be considered, operational analyses of future conditions may be required using both ITE *Trip Generation* rates and the proposed alternative rates.
 - c) *Build with mitigation condition* – Trips for the proposed project must be added to the No-build volumes to generate Build With Mitigation volumes, and the results shown graphically. This analysis must include documentation of all modes.
2. *Planned and funded transportation improvements* – The effects of planned and funded transportation improvements at locations within the study area must be documented and considered in the No-build, Build Without Mitigation, and Build With Mitigation future conditions, when such improvements are funded and scheduled to be constructed within the analysis time horizon.
3. *Operational analysis* – Provide a summary of No-build, Build Without Mitigation, and Build With Mitigation operational analysis results documenting performance measures for vehicle, pedestrian, bicycle, and transit modes per Section 3.IV.B and 3.IV.C, Performance Measures.
4. *Signal warrant analysis* – Provide a summary of traffic signal warrant analysis performed per the requirements of Section 3.III.G, General Analysis Methodology Requirements:
 - a) whenever new traffic signals are proposed, OR
 - b) whenever an unsignalized intersection operates at LOS F and there is a reason to believe a traffic signal might be warranted, OR
 - c) when required by MassDOT.
5. *Queue length analysis* – Provide a summary (tabular and graphic) of 50th (average) and 95th Percentile existing Back of Queue calculation results (including a summary of available queuing capacity) per Section 3.III.H, General Analysis Methodology Requirements.
6. *Turn lane warrant analysis* – Provide a summary of left-turn lane and/or right-turn deceleration lane warrant analyses prepared per Section 3.III.I, General Analysis Methodology Requirements.

D. Access Management and Circulation Analysis

1. TIAs must provide an overview of the proposed access location(s), key features, and an assessment of conformance with applicable Access Spacing standards.

- a) Identify proposed locations of all access points for all modes of the public transportation network.
- b) Show proposed internal circulation for all modes, including motor vehicle, transit, pedestrian, and bicycle connectivity as well as truck delivery route(s). Document points of interaction with pedestrian facilities and the methods used to ensure pedestrian safety. Internal circulation should be designed in accordance with MassDOT Complete Streets design guidelines that call for safe and convenient accommodation of all users. Consider opportunities for shared access and/or driveway consolidation with adjacent properties.
- c) Document proposed distances between new motor vehicle access points and existing adjacent driveways and intersections, as well as their conformance with applicable minimum access spacing standards, including preference for access to lower hierarchy streets, where possible.
- d) Document situations where the minimum access spacing standard is not met and for proposed situations where access points on opposite sides of a roadway do not align. Note: Minimum access spacing standards must be met whenever possible, and proposed motor vehicle access must be aligned with existing roads and driveways whenever possible.
- e) If required by MassDOT, provide a circulation layout and connection plan that shows any future development build out of the vicinity and any associated changes to access or circulation. The plan must document all modes as discussed in (b) above.

E. Parking

1. TIAs must provide an overview of proposed parking supply and layout. Items to be addressed include:
 - a) Identify number of vehicular parking spaces and parking ratio, including a comparison to required local minimum and maximum parking ratios for the site, as well as comparison to industry standard ratios such as those presented in ITE Parking Generation and/or the Urban Land Institute's Shared Parking.
 - b) Identify location and number of carpool, vanpool, and/or car-sharing spaces, as well as spaces for low-emissions vehicles. Electric vehicle charging stations should also be identified.

- c) Identify number of bicycle parking spaces and proximity of parking to entrances. Identify the number of bicycle parking spaces provided as long-term bicycle storage (e.g. lockers, weather-protected garage storage, etc.) versus the number of visible and publicly-accessible bicycle parking spaces. Indicate intended use for bicycle storage (i.e. for employees, residents, customers, etc.).
- d) Identify on-site pedestrian circulation routes and their relationship to parking. Note the proximity and connectivity of on-site pedestrian facilities to adjacent street facilities and street crossings.
- e) Identify parking management strategies, including pricing and/or time restrictions as appropriate.
- f) Identify potential shared parking opportunities.
- g) Identify potential off-site parking opportunities (as well as on-street parking facilities, where applicable). This information will be presented as a map depicting existing parking within ¼-mile of the project site along with a written description.
- h) Identify parking banks (landscape area reserves), where applicable. Parking banks are areas that are landscaped and may be used to accommodate future parking. Typically considered in a phased development, parking banks would remain as green spaces during the initial stages of a development and, subject to a demonstrated need and subsequent approval process, could be converted to parking as needed.

F. “Transportation Options”

1. Provide an assessment of transportation options available to project residents, employees, customers, visitors, and/or other users of the proponent’s project. Items to be addressed include transportation demand management program(s), participation in a transportation management association, transit options, non-motorized transportation modes, etc.

G. Intersection Sight Distance Documentation

1. Document the available intersection sight distance at proposed site driveway(s). Sight distance measurements must be in conformance with the latest edition of the AASHTO manual, A Policy on Geometric Design of Highways and Streets.

H. Mitigation Measures

1. The TIA shall document mitigation measures proposed to ensure the proponent's project meets applicable operating standards. A statement of implementation commitment shall be provided consistent with Section 4.I.D.
2. MassDOT should be consulted to ensure feasibility of proposed improvements and/or mitigation. Pending local District arrangements, this effort may include consultation with the MassDOT District Pedestrian/Bicycle Coordinator and/or District Complete Streets Coordinator.
3. Proponents are strongly encouraged to propose effective TDM-based mitigation measures, in a variety of forms, to reduce motor vehicle trip generation, to influence the time of day when the motor vehicle trips occur, and/or to promote the healthy transportation modes of walking, bicycling, and public transit. In addition to reducing peak hour congestion and improving health, TDM techniques offer potential reductions in energy consumption and greenhouse gas emissions, consistent with the GreenDOT Policy Directive. Project proponents must coordinate with MassRIDES or the local Transportation Management Agency (TMA) to obtain the necessary information to estimate the effect of potential TDM strategies. MassRIDES will work with proponents to understand the following:
 - a) how development occurring in areas with an active Transportation Management Association (TMA) could achieve trip reductions through participation in the TMA; and/or
 - b) how development in areas without a TMA could propose and commit to developing and maintaining a range of TDM measures appropriate for the development location, type, and context. Such measures should be coordinated with MassRides and may include: enhanced transit service, ridesharing (carpooling or vanpools), shuttle services, transit subsidies, parking pricing, flexible schedules, telecommuting, biking and walking, and other related measures that reduce single occupant vehicle trips.
4. Refer to Section 5, Mitigation, for additional details.

I. Conclusion

1. The Conclusion must outline the TIA findings and recommendations.
2. The TIA must also acknowledge the MassDOT Highway Division Access Permit process and anticipated next steps.

II. TIA APPENDIX DATA

The purpose of the Technical Appendix is to provide documentation of the data collection and analytical procedures used in the TIA preparation. The following is a listing of the typical elements for a Technical Appendix.

- A. Traffic volumes
 - 1. Automatic Traffic Recorder summaries
 - 2. Summary of “raw” turning movement, pedestrian, and bicycle counts at intersections
 - a) calculation of peak hour factors by approach
 - b) calculation of percent heavy vehicles by movement
 - 3. Adjustment factors and sources
 - a) seasonal adjustments
 - b) no-build growth factors
- B. Sketches, signal layout plans, and related field data
- C. Transit service existing conditions data
- D. Operational analysis worksheets from approved traffic operations software
- E. ITE *Trip Generation* land use code sheets
- F. Calculations for alternative trip generation rates
- G. RTA-provided transit data documenting service capacity, ridership, etc., as appropriate
- H. Plotted sight distance analyses
- I. Collision diagrams (if required)
- J. Traffic signal warrant worksheets (if required)
- K. Speed data (if required)

III. RECOMMENDED REFERENCES FOR USE IN TIA PREPARATION

The following publications are recommended for use in TIA preparation.

- A. American Association of State Highway and Transportation Officials (AASHTO). *AASHTO Guidelines for Traffic Data Programs*. Most recent edition.
- B. American Association of State Highway and Transportation Officials. *A Policy on Geometric Design of Highways and Streets*. Most recent edition.
- C. Federal Highway Administration. *Access Management for Streets and Highways (Implementation Package FHWA-IP-82-3)*. June 1982.
- D. American Association of State Highway and Transportation Officials. *Guide for the Development of Bicycle Facilities*. Most recent edition.
- E. Federal Highway Administration. *Highway Performance Monitoring System Field Manual*. Available on-line at: <http://www.fhwa.dot.gov/policyinformation/hpms/fieldmanual/>
- F. Federal Highway Administration. *Manual on Uniform Traffic Control Devices Handbook* (including the Massachusetts Amendments). Most recent edition.
- G. Federal Highway Administration. *Traffic Monitoring Guide*. Available on-line at: <http://www.fhwa.dot.gov/ohim/tmguide/>
- H. Institute of Transportation Engineers. *Parking Generation*. Most recent edition.
- I. Institute of Transportation Engineers. *Transportation Impact Analyses for Site Development*. Most recent edition.
- J. Institute of Transportation Engineers. *Trip Generation*. Most recent edition.
- K. Institute of Transportation Engineers. *Trip Generation Handbook*. Most recent edition.
- L. Massachusetts Department of Transportation. *Massachusetts Highway Department Project Development and Design Guidebook*. Most recent edition.
- M. Massachusetts Executive Office of Energy and Environmental Affairs. *Smart Growth/Smart Energy Toolkit*. Most recent edition.
- N. Massachusetts Department of Transportation. *Traffic and Safety Engineering 25% Design Submission Guidelines*. Most recent edition.

- O. National Association of City Transportation Officials. *NACTO Urban Bikeway Design Guide*. Most recent edition.
- P. National Cooperative Highway Research Program. *Improving Pedestrian Safety at Unsignalized Crossings*. NCHRP Research Report 562. 2006.
- Q. Transportation Research Board. *Access Management Manual*. Most recent edition
- R. Transportation Research Board. *Highway Capacity Manual*. Most recent edition.
- S. Transportation Research Board. *Transit Capacity and Quality of Service Manual*. Most recent edition.
- T. Urban Land Institute. *Shared Parking*. Most recent edition.
- U. *301 CMR 11.00: MEPA Regulations, Section 11.03: Review Thresholds*

Section 6 - Monitoring

A monitoring program completed by the proponent must be established in close coordination with MassDOT and provided on an on-going basis as appropriate for the mitigation measure. The intent of the transportation monitoring program is to confirm that post-development impacts are consistent with forecast changes and that mitigation measures are properly completed and/or maintained. With a monitoring program, the actual impacts of a project can be determined and additional mitigation measures identified in the event that shortfalls arise in meeting mode share or other targets. The need and schedule for the implementation of additional mitigation measures will depend on the results of the transportation monitoring program.

This section presents monitoring program issues, findings and implications, and annual reporting requirements.

I. Transportation Monitoring Program

As part of the project mitigation program, the proponent should commit to implementing a transportation monitoring program to be conducted upon the occupancy of the project. The goals of the transportation monitoring program will be to evaluate the accuracy of the assumptions made in the TIA and the adequacy of the transportation mitigation, including the effectiveness of the TDM program. The monitoring program will include, but will not be limited to, the following issues:

1. Monitoring of trip-making and mode share relative to the mode share assumptions and goals in the TIA.
2. Verification of infrastructure elements, including transportation system improvements, parking accommodations, and on-site amenities, as well as measures of infrastructure utilization.
3. Status of MassRides/TMA participation.
4. Incentive- and education-based measures, including measures provided, uptake/participation by on-site residents/employees/visitors, and outcomes of measures implemented.

II. Monitoring Program Findings & Implications

If the transportation monitoring program indicates that the proposed mitigation is not effective in accommodating the future traffic volumes at key area intersections impacting the state highway system, the proponent will be responsible for identifying and implementing operational improvements at these constrained locations. These improvements could entail traffic signal timing and phasing modifications, and/or further refinement of the TDM program to reduce site trip generation.

1. A copy of the waste shipment record for which a confirmation of delivery was not received; and
2. A cover letter signed by the owner/operator of the facility or dumping ground explaining the efforts taken to locate the asbestos waste shipment records in accordance with 310 CMR 7.15. Compliance with the foregoing reporting requirements shall not be construed to relieve the owner/operator of the facility or dumping ground of the obligation to maintain waste shipment records in accordance with 310 CMR 7.15.

(d) The owner/operator of the facility or dumping ground where the asbestos abatement activities have occurred and/or where the ACWM was generated shall report, in writing, to the Department if the waste shipment record is modified after the date the waste is accepted by the initial transporter. The report shall include a description of the amendment or modification together with copies of the waste shipment record before and after amendment or modification.

(e) The owner/operator of the facility or dumping ground where the asbestos abatement activities have occurred and/or where the ACWM was generated, the transporter, and the owner/operator of the designated waste disposal site shall retain a copy of all waste shipment records, including a copy of the waste shipment record signed by the owner/operator of the designated waste disposal site, for at least two years. All such parties shall furnish upon request, and make available for inspection by Department personnel, all records required under 310 CMR 7.15(18).

(19) General Enforcement Provisions. In addition to the Department's enforcement authority under M.G.L. c. 111, §§ 142A through O, M.G.L. c. 21A § 16 and other applicable laws and regulations, the provisions of 310 CMR 7.15 are subject to the enforcement provisions of 310 CMR 7.52.

7.16: U Reduction of Single Occupant Commuter Vehicle Use

(1) Commencing with the effective date of 310 CMR 7.16 each affected facility (except as provided below) shall diligently and expeditiously implement and thereafter continuously maintain the following mandatory measures which are designed to achieve a goal of reducing the number of single occupant commuter vehicles customarily commuting daily to each employment facility as of its base date by 25% or as adjusted pursuant to 310 CMR 7.16(7):

(a) making available to commuters any pass program offered by the area transit authority, if any commuter to the facility uses the public transit facilities of such Authority as part of his daily commuting trip, including making all administrative arrangements for commuters to purchase the pass and thereby participate in the pass program and encouraging commuters to participate by such means as publicizing the availability of the pass program and the cost advantages thereof.

(b) posting in a conspicuous place or places the schedules, rates and routes of every bus which serves the facility including the services offered by the area transit authority and any privately or publicly operated services which may exist in the immediate vicinity of the employer.

(c) providing incentives for bicycle commuting such as secure locking facilities and removal of restrictive rules against bicycle usage at the facility.

(d) negotiating with authorities in charge of bus lines serving the facility for improved service to the facility including providing information on the location and density of employees' residences and commuting times to be used for route planning by local transit authorities.

- (e) conducting a carpooling program (either alone or in cooperation with neighboring facilities) which:
 - 1. matches on a regularly recurring basis (not less often than once every 12 months) the names, addresses, and suitable contact information of all commuters who commute in single-occupant commuter vehicles or carpool to a facility or group of neighboring facilities and who express interest in carpooling, so that such commuters with similar daily travel patterns are informed and aware of each other for the purpose of forming carpools;

7.16: continued

2. continuously publicizes the advantages of carpooling, both in terms of savings of fuel and money and any incentive in effect at the facility;
 3. creates incentives for carpool formation by providing persons who carpool with first call on available parking space or spaces which are closest to entrances to the facility; and,
 4. provides information for carpooling program to prospective and new employees, and offers new employees the opportunity to participate in such program.
- (f) In the case of an employment facility with 1,000 or more employees, implementing a vanpool program which shall include the following elements:
1. The employer shall:
 - a. cooperate with a non-profit third-party vanpool program and offer their employees the opportunity to participate in such a program; or
 - b. post in a conspicuous place and regularly notify all employees of an outstanding offer to acquire (by purchase, lease or otherwise), insure and make available to any group of at least ten employees a van for their use as a vanpool. Such offer, a copy of which shall be sent to the Secretary at the time of the employer's first updated report, shall include the procedures by which vanpools are offered and the conditions upon which the offer is contingent, including acceptance by the prospective driver of the responsibility for providing regular service, training backup drivers, and arranging vehicle maintenance, and acceptance by each other member of the prospective group of responsibility for payment of a *pro rata* share of all direct costs (such as rental charge, licensing costs, insurance, tolls, fuel and repair) and indirect costs (such as depreciation and interest on borrowed funds) of the operation and maintenance of the vehicle.
 - c. notify the Secretary when it is learned that ten or more employees are interested in forming a vanpool.
 2. The employer shall analyze and continuously publicize the advantages of vanpooling, including any resulting cost savings, convenience and any incentives in effect at the facility. Such incentives shall include providing persons who vanpool with first call on available parking spaces or spaces which are closest to entrances to the facility.
 3. Matching for the vanpool program should be coordinated with the carpool matching program, to facilitate the formation of vanpools.

Upon reaching such a 25% goal, as stated at the beginning of 310 CMR 7.16, such employer shall thereafter continue such a program in such a manner as to aim at maintaining the ratio of single-occupant commuter vehicles to total commuters customarily arriving at its facility at or below the ratio referred to in 310 CMR 7.16(4)(e). If an employer or educational institution reaches and thereafter maintains said goal by implementing less than all the measures in 310 CMR 7.16(1), it shall not be subject to a requirement to implement the remainder of such measures.

Commencing with the effective date of 301 CMR 7.00 smaller employers shall also cooperate with MASSPOOL in its efforts to promote and organize multi-employer ridesharing activities.

7.16: continued

(2) MB. The base date and the date for submittal of the base date report for all existing affected facilities shall be as provided in 40 CFR 52.1161, June 12, 1975. 310 CMR 7.00 established the base date for all existing affected facilities as October 1, 1975, except as provided below, and required a facility with more than 250 commuters to submit at least a base date report to the Secretary on October 15, 1975. The base date for an affected facility which becomes subject to the requirements of 310 CMR 7.16 upon its effective date shall be October 15, 1979, except as provided below. Each employer with a base date of October 15, 1979 shall submit to the Secretary their base data report for each affected facility by November 15, 1979. The base date for an affected facility which attains an employment level of 250 or more employees after the effective date of 310 CMR 7.16 shall be the date six months after it reaches such a level, except as provided below, and its base date report shall be due on the next date not more than six months later than is specified for any report or updated report by any existing facility. Where an employer or educational institution can establish to the satisfaction of the Secretary that a facility had commenced measures to reduce the number of single-occupant commuter vehicles customarily arriving daily at an earlier date, the Secretary may approve the use of such earlier date as the base date for such facility. In lieu of establishing the actual number of such vehicles on such earlier date, an employer or educational institution may assume for the purpose of 310 CMR 7.16(2) that prior to such earlier date 20% of all commuters to such facility who arrived by motor vehicle other than mass transit customarily arrived by means other than single-occupant commuter vehicles.

(3) PV. The base date for all existing affected facilities shall be June 15, 1977, except as provided below. By June 30, 1977 each employer with a base date of June 15, 1977 shall submit to the Secretary their base date report for each affected facility. The base date for an affected facility which becomes subject to the requirements of 310 CMR 7.16 upon its effective date shall be October 15, 1979, except as provided below. Each employer with a base date of October 15, 1979 shall submit to the Secretary their base date report for each affected facility by November 15, 1979. The base date for an affected facility which attains an employment level of 250 or more employees after the effective date of 310 CMR 7.00 shall be the date six months after it reaches such a level, except as provided below, and its base date report shall be due on the next date not more than six months later than is specified for any report or updated report by an existing facility. Where an employer or educational institution can establish to the satisfaction of the Secretary that a facility had commenced measures to reduce the number of single-occupant commuter vehicles customarily arriving daily at an earlier date, the Secretary may approve the use of such earlier date as the base date for such facility. In lieu of establishing the actual number of such vehicles on such earlier date, an employer or educational institution may assume for the purpose of 310 CMR 7.16(3) that prior to such earlier date 20% of all commuters to such facility who arrived by motor vehicle other than mass transit customarily arrived by means other than single-occupant commuter vehicles.

(4) B, CM, MV, SM. The base date for all existing affected facilities shall be October 15, 1979, except as provided below. By November 15, 1979, each employer shall submit to the Secretary their base date report for each affected facility. The base date for an employment facility which attains an employment level of 150 or more employees after the effective date of 310 CMR 7.16 shall be the date six months after it reaches such a level, except as provided below, and its base date report shall be due on the next date not more than six months later than is specified for any report or updated report by an existing facility. Where an employer or educational institution can establish to the satisfaction of the Secretary that a facility had commenced measures to reduce the number of single-occupant commuter vehicles customarily arriving daily at an earlier date,

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the Secretary may approve the use of such earlier date as the base date for such facility. In lieu of establishing the actual number of such vehicles on such earlier date, an employer or educational institution may assume for the purpose of 310 CMR 7.16(4) that prior to such earlier date 20% of all commuters to such facility who arrived by motor vehicle other than mass transit customarily arrived by means other than single-occupant commuter vehicles.

7.16: continued

Each base date report shall be current and include:

- (a) The number of commuters who take any means of transportation to such facility as of its base date.
- (b) The number of single-occupant commuter vehicles customarily used daily by commuters to the facility, the number of commuters who customarily carpool in a private vehicle carrying two or more occupants, the number of commuters who customarily vanpool in a vehicle carrying eight or more occupants, the number of commuters who customarily commute by any means of public transportation, the number of employees who customarily commute by any other means of travel (taxi, bicycle, *etc.*).
- (c) The total number of vehicles customarily used daily by commuters to the facility as of the base date.
- (d) The percentage which the current number of daily commuters in single-occupant vehicles is of all daily commuters to the facility.
- (e) The percentage derived by taking $\frac{3}{4}$ of the percentage calculated in 310 CMR 7.16(4)(d). This percentage will serve as the program goal for individual employers defined as the ratio of single-occupant commuter vehicles to total daily commuters to the facility.
- (f) The number of van type vehicles with eight or more commuters customarily arriving at the facility.
- (g) The type of carpool matching program with a description of materials currently being used.
- (h) The level of participation achieved in the most recent program, including the number of data cards distributed, and returned, the number of matching lists distributed and the number of commuters in newly formed carpools.
- (i) The type of incentives offered, including parking, flexi-hours and others.
- (j) The promotional strategies used to encourage ridesharing with copies of relevant materials excluding those supplied by MASSPOOL.
- (k) The number of vans sponsored.
- (l) The number of participants currently enrolled in a prepaid transit pass program, if applicable.

(5) U. Each affected employer shall annually update its base date report by means of a report containing:

- (a) Updated information called for in 310 CMR 7.16(2) through 7.16(4).
- (b) The net change in percentage points between the percentage reported under 310 CMR 7.16(4)(e) as of the base date and that under 310 CMR 7.16(4)(d) as of the date of the current report.
- (c) The net change in percentage points between the percentage reported under 310 CMR 7.16(4)(d) as of the last reporting period and the date of the current report.
- (d) A detailed description of all measures which have been taken to reduce the number of single-occupant commuter vehicles to the facility and the commuter response to such measures.

The first such annual updated report for affected employers in the Metropolitan Boston Air Pollution Control District and the Pioneer Valley Air Pollution Control District shall be due on November 15, 1979, and successively each 12 months. The first such annual updated report for affected employers in the Berkshire Air Pollution Control District, Central Massachusetts Air Pollution Control District, Merrimack Valley Air Pollution Control District, and Southeastern Massachusetts Air Pollution Control District shall be due on November 15, 1980, and successively each 12 months.

- (6) U. Each employer submitting reports required by 310 CMR 7.16(5) shall cause such reports to be signed as follows:
- (a) In the case of a corporation, by a principal executive officer of at least the level of vice president, or his duly authorized representative, if such representative is responsible for the overall operation of the facility covered by the reports.
 - (b) In the case of a partnership, by a general partner.
 - (c) In the case of a sole proprietorship, by the proprietor.
 - (d) In the case of an unincorporated association, by the president or the chairman thereof.

7.16: continued

(e) In the case of municipal, state, or other public facility, by either a principal executive officer, ranking elected official, or other fully authorized employee.

Each employer submitting reports required by 310 CMR 7.16(5) shall retain for at least three years all supporting documents and data upon which each such report was based. Each report submitted pursuant to 310 CMR 7.16(5) shall be accompanied by an adequate explanation of the methodology used to gather, complete and analyze the data, the assumptions used in that analysis, and samples of the forms used to elicit the underlying information from commuters at the facility.

(7) U. Where the total number of commuters to a particular facility is changed due to fluctuation in employment between the base date and the date of any report under 310 CMR 7.16(5) such fact shall be reported at the time of the submission of such report. The goal of the employer having such a change is to attain and maintain the ratio of commuters customarily arriving at facility daily in single-occupant commuter vehicles to total commuters indicated by 310 CMR 7.16(4)(e).

(8) U. If an employer does not meet and thereafter at all times maintain the reduction specified under 310 CMR 7.16(2) through 7.16(4) in connection with each report under 310 CMR 7.16(5) it shall, upon written notification of the Secretary, submit a description of any remedial actions which it intends to take to meet the requirements of 310 CMR 7.16(2) through 7.16(4).

(9) U. If an employer in good faith diligently and expeditiously implements and thereafter continuously maintains those measures set forth in 310 CMR 7.16(2) through 7.16(4) as are applicable to it, it shall not be subject to any enforcement action even though it may fail to achieve the 25% goal referred to in 310 CMR 7.16(1).

(10) U. Within 60 days after the receipt of the periodic reports required under 310 CMR 7.16(5), the Secretary shall submit to the Department a summary of the information contained in such reports, including:

- (a) A list of all employers in the order of the percentage reduction achieved between the base dates and the date of the required report.
- (b) The total reduction between the respective base dates and the date of the required reports of the number of single-occupant vehicles customarily used to arrive at all facilities for which reports were filed.
- (c) A list of employers that have not complied with the provisions of 310 CMR 7.16.

7.17: U Conversions to Coal

(1) Sulphur Content, Emission Limitations and Control Thereof. Notwithstanding the provisions of 310 CMR 7.02(8)(d) Table 4 or 5 and 310 CMR 7.05(1), facilities specified in 310 CMR 7.17(2) may utilize solid fossil fuel (coal) as the fuel of use, provided that the following general conditions are met:

- (a) Application for approval to utilize such fuel has been made to the Department under the provisions of 310 CMR 7.02 and said application has been approved by the Department in writing.
- (b) All solid fuel burning shall be conducted strictly in accordance with the application as approved by the Department and in conformance with applicable laws and regulations not specifically excepted.

- (2) Facilities Allowed to Utilize Solid Fossil Fuel. (Coal Facilities named herein may use coal as the fuel of use, provided that the following specific conditions are met:
- (a) New England Power Company, Brayton Point Station, Somerset, Massachusetts: on and after November 1, 1978 and prior to November 1, 1988, Units 1, 2 and 3 provided that:
 - 1. Such fuel shall have an average sulfur content not in excess of 1.21 pounds per million Btu heat release potential for any monthly period, nor exceed 2.31 pounds per million Btu heat release potential in any day, as measured in accordance with procedures prescribed by the Department.

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The principal advantage of a broad authorization is that it offers the greatest deal of flexibility in which endeavors the state might get involved in and allows a more direct means of incorporating “cutting-edge” concepts into practice. By effectively saying, “You’re the professionals in this field; you do what is most appropriate,” legislators resist micromanaging at the macro level and better enable administrators to coordinate with the local level. However, a fundamental drawback is that each of these measures is devoid of a context in which it is to operate. No clear direction is adopted for either ridesharing programs or commuter parking facilities, and their place in the overall transportation planning system is left to the imagination.

A more detailed type of enablement is seen in the **Illinois** Employee Commute Options Act.¹⁶ Illinois authorizes its DOT to adopt necessary rules to accomplish the purposes of the legislation. However, the Act goes on to list some specific activities of the department in carrying out its actions and enlists an advisory board to advise the department in its activities. A part of the Act does contain a legislative mandate applicable to affected employers. In **Maine**, a matching fund is established for regional rideshare services.¹⁷ The statute lists minimal rules and regulations that shall be used by its department of economic and community development in disbursing funds, although it allows the department to construct additional rules and requires a certain level of reporting. A statute like Maine’s offers basically the advantages of a broader authorization but with a higher level of accountability and a greater sense of the broader context for trip reduction regulations.

Legislative mandates also run the spectrum from broad to narrow. For instance, **Colorado** mandates the creation of a 20-year transportation plan (including transportation control measures) for certain regions.¹⁸ But while it requires certain elements within that plan and creates an advisory committee, it also leaves the minute technical aspects of the plan up to its Department of Transportation. By contrast, **New Jersey’s** Traffic Congestion and Air Pollution Control Act¹⁹ provides more specific requirements to its DOT.

CONTENT OF THE MODEL SECTION

Section 9-201 below is intended to provide a strong framework for the implementation of a full range of TDM measures within a comprehensive planning context. The state adopts rules and guidelines to assist the local governments in their adoption of trip reduction ordinances. Such ordinances must be adopted by populous local governments, and local governments with at least one major employer or major worksite and located in a populous region. Other local governments are authorized to adopt trip reduction ordinances. In either case, trip reduction ordinances must be

¹⁶625 Ill. Comp. Stat. §§32/1 *et seq.*

¹⁷Me. Rev. Stat. Ann. tit. 216 (1998).

¹⁸Colo. Rev. Stat. Ann. §43-1-1103 (West 1998).

¹⁹N.J. Stat. Ann. §§27:26A-1 *et seq.* (1998).

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consistent with the local comprehensive plan, and the transportation element of the plan in particular; no such ordinance may be adopted if the local government does not have a local comprehensive plan. Trip reduction ordinances are the primary tool for identifying commute trip reduction zones (areas with a similar level of traffic congestion and/or percentage of people driving alone) and for requiring commute trip reduction programs from all major employers, and employers at major worksites, in those local governments. The Section requires analysis of the existing commute situation, the setting of clear and achievable goals for the reduction of single-occupancy vehicle commute trips (people driving alone to and from work), and suggests measures for achieving those goals.

One notable aspect of the Section is the authorization for local governments to designate transit zones and for employers to relocate their worksites to transit zones as a commute trip reduction measure. This is in addition to typical trip reduction measures such as discouraging parking, encouraging transit use, carpooling, and vanpooling, and implementing telecommuting and flexible work hours. Transit zones are defined as areas with a high level of transit service, and rules of the state Department of Transportation would set more specific criteria. The intent of this provision is to direct employment into downtowns and other central business districts, where existing public transit infrastructure exists and where the additional density and intensity of development will support further transit improvements.

9-201 Transportation Demand Management

- (1) The [*name state*] Department of Transportation shall adopt and implement a transportation demand management program, and local governments shall adopt and implement trip reduction ordinances, in the manner prescribed in this Section.
- (2) The purposes of this Section are to:
 - (a) reduce the number of single-occupant motor vehicle trips;
 - (b) encourage the location of major workplaces in central business districts and similar areas conducive to public transit, pedestrian, and bicycle commuting;
 - (c) encourage telecommuting and alternative work schedules;
 - (d) encourage commuting and other transportation by pedestrian, bicycle, public transit, ridesharing, carpool, and vanpool modes;
 - (e) create and implement effective methods or measures, responsive to the needs of the various constituencies and communities of the state, for achieving the aforementioned purposes; and

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- (f) facilitate cooperation by the state, state agencies, [regional planning agencies], regional transportation agencies, local governments, transit agencies, business, industry, and the general public in achieving the aforementioned purposes.
- (3) As used in this Section and in any trip reduction ordinance:
- (a) **“Carpool”** means a group of [two *or* three] or more persons commuting on a regular basis to and from work by means of a vehicle with a seating capacity of nine persons or less;
 - (b) **“Commute Trip”** means trips between home and a worksite, including incidental trips during the trip between home and a worksite, that occur during peak travel periods;
 - (c) **“Commute Trip Reduction Zones”** mean areas, such as census tracts or combinations of census tracts, within or encompassing a local government that are characterized by similar employment density, population density, level of transit service, parking availability, access to high-occupancy vehicle facilities, and other factors that are determined to affect the level of single-occupancy vehicle commuting;
 - (d) **“Commute Trip Vehicle Miles Traveled Per Employee”** means the sum of the individual vehicle commute trip lengths in miles over a set period of time divided by the number of full-time employees during that period;
 - (e) **“Department”** means the state Department of Transportation;
 - (f) **“Major Employer”** means a private or public employer that employs [100] or more full-time employees at a single worksite who begin their regular work day during the peak travel period for 12 continuous months during the year; or nine continuous months in the case of schools and facilities of higher learning;
 - (g) **“Major Worksite”** means a building or group of buildings on physically contiguous parcels of land or on parcels separated solely by private or public roadways or rights of way, at which there are [100] or more full-time employees who begin their regular work day during the peak travel period for 12 continuous months during the year, or nine continuous months in the case of schools and facilities of higher learning;
 - (h) **“Peak Travel Period”** means the time period between 6:00 and 9:00 a.m. on weekdays, exclusive of state and national holidays;
 - (i) **“Proportion of SOV Commute Trips”** means the number of commute trips made by SOVs divided by the number of full-time employees;

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- (j) **“Single-Occupant Vehicle”** or **“SOV”** means a passenger motor vehicle occupied by only one person;
- (k) **“Task Force”** means the Commute Trip Reduction Task Force;
- (l) **“Transit Zone”** means a commute trip reduction zone with a high level of transit service;
- (m) **“Transportation Demand Management”** (TDM) means a measure generally designed to limit the demand for transportation infrastructure, usually through reducing the number of SOV trips;
- (n) **“Transportation Demand Management Measures”** means the specific measures used to help manage transportation demand. Transportation demand management measures include, but are not limited to:
 - 1. relocation of the worksite to a transit zone;
 - 2. provision of preferential parking or reduced parking charges, or both, for high-occupancy vehicles;
 - 3. instituting or increasing parking charges for SOVs;
 - 4. provision of commuter ride matching services to facilitate employee ridesharing for commute trips;
 - 5. provision of subsidies for transit fares, carpooling, and/or vanpooling;
 - 6. provision of vans for vanpools;
 - 7. permitting the use of the employer’s vehicles for carpooling or vanpooling;
 - 8. permitting flexible work schedules to facilitate employees’ use of transit, carpools, or vanpools;
 - 9. cooperation with transportation providers to provide additional regular or express service to the worksite;
 - 10. construction of special loading and unloading facilities for transit, carpool, and vanpool riders;
 - 11. provision of bicycle parking facilities, lockers, changing areas, and showers for employees who bike or walk to work;

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12. provision of parking incentives such as a rebate for employees who do not use the parking facilities;
 13. establishment of a program to permit employees to work part- or full-time at home or at an alternative worksite closer to their home;
 14. establishment of a program of alternative work schedules such as compressed work week schedules which reduce commuting; and
 15. implementation of other measures designed to facilitate the use of high-occupancy vehicles such as on-site day care facilities and “guaranteed ride home” programs.
- (o) “**Vanpool**” means [five] or more persons commuting on a regular basis to and from work by means of a vehicle with a seating capacity of not more than [15] persons;
- (4) The Department shall:
- (a) be responsible for providing technical assistance to [regional planning agencies] and local governments and, through liaisons in those regions and local governments, to major employers, in carrying out the functions of this Section; and
 - (b) convene a Commute Trip Reduction Task Force, with not more than [15] members, that represents a balance of state agency representatives; [regional planning agencies], local governments, transit agencies; major employers’ representatives; and the general public. The Department shall be responsible for identifying appropriate membership and providing staff support.
- (5) The Department shall adopt rules, and may adopt guidelines, for trip reduction ordinances.
- (a) The Task Force shall recommend in writing proposed rules and guidelines. The Department shall give due consideration to the recommendations of the Task Force, and shall explain, in writing, any revisions of or alterations to the recommendations of the Task Force and the legal and factual bases therefor.
 - (b) The rules and guidelines shall ensure consistency in trip reduction ordinances among regions and local governments, taking into account differences in employment and housing density, employer size, existing and anticipated levels of transit service, special employer circumstances, and other factors the Department determines are relevant.
 - (c) At a minimum, the rules shall include:

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1. methods and information requirements for determining initial year values of the proportion of SOV commute trips and the commute trip vehicle miles traveled per employee
 2. methods and information requirements for measuring compliance with, or progress toward meeting, commute trip reduction goals;
 3. criteria for establishing commute trip reduction zones;
 4. criteria for establishing transit zones;
 5. methods for assuring consistency in the treatment of employers who have worksites in more than one region or local government;
 6. methods to ensure that employers receive full credit for the results of TDM efforts and commute trip reduction programs which have been implemented by major employers and employers at major worksites prior to the initial year;
 7. an appeals process by which major employers and employers at major worksites who, as a result of special characteristics of their business or its locations, would be unable to meet the requirements of a trip reduction ordinance, may obtain a waiver or modification of those requirements and criteria for determining eligibility for waiver or modification;
 8. alternative commute trip reduction goals for employers who cannot meet the goals of this Section because of the unique nature of their business;
 9. alternative commute trip reduction goals for major employers whose worksites change and who contribute substantially to traffic congestion in trip reduction zones; and
 10. model trip reduction ordinances.
- (d) The rules shall be considered rules of the Department, and shall be subject to Section [4-103] in the same manner as rules of the [state planning agency]. Their preparation and adoption shall be governed by the [*Administrative Procedure Act*] except as otherwise provided in this Section.
- (e) The rules and guidelines shall be sent to all [*regional planning agencies*] and local governments within [30] days after their adoption.
- (f) The Task Force shall, at least once every [5] years, conduct a general review of this Section, the rules and guidelines, and of progress toward implementing trip reduction ordinances and commute trip reduction programs. The review shall

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incorporate the progress reports pursuant to paragraph (10) below. The general review shall result in a written report to the Department, the Governor and the [legislature] that contains:

1. recommendations of proposed amendments to this Section or other statutes, new legislation, and/or amendments to the rules and guidelines under this paragraph (5). These recommendations may include proposals that the [legislature], the Department, and/or other state agencies adopt and implement other types of TDM measures beyond employee commute trip reduction measures, including but not limited to parking strategies, pricing strategies (road and bridge tolls), and land development regulations to foster bicycle/pedestrian and transit use; and
2. an analysis of changes in, or alternatives to, existing statutes, rules, and guidelines that would increase their effectiveness or reduce any identified adverse impacts; and/or why such changes or alternatives are less effective or would result in more adverse effects than the existing statutes, rules, and guidelines.

The Department shall give due regard to the written report, and shall adopt or reject the report in writing, stating in that writing any revisions or alterations from the report and the reasons therefor. If the Department fails to adopt, in whole or with revisions, such a written report within five years of the adoption of the first rules pursuant to this Section or of the last adoption of a written report, the rules and guidelines shall not enjoy a presumption of reasonableness, and the Department shall bear the burden of demonstrating such reasonableness.

- (6) Every local government with a population of [150,000] or more, or containing one or more major employers or major worksites and located in a region with a population of [150,000] or more, shall adopt a trip reduction ordinance. Every other local government may adopt a trip reduction ordinance. A trip reduction ordinance:
 - (a) may be adopted only pursuant to this Section, and any purported adoption of a trip reduction ordinance contrary to this Section is void;
 - (b) shall be adopted in the manner of a land development regulation pursuant to Section [8-103] of this Act, except as otherwise provided in this Section;
 - (c) shall be prepared in cooperation with the [regional planning agency], adjacent or contiguous local governments, transit agencies, major employers, and the owners of, and employees at, major worksites;
 - (d) may not be adopted unless and until the local government has adopted a local comprehensive plan with a transportation element that includes all the applicable components required by Section [7-205];

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- (e) shall be consistent with the local comprehensive plan and the transportation element thereof, and shall not be inconsistent with the trip reduction ordinances of the:
 - 1. other local governments in the region if the local government is within the jurisdiction of a [regional planning agency]; or
 - 2. adjacent or contiguous local governments otherwise;
- (f) shall, before it may be adopted by any local government within the jurisdiction of a [regional planning agency], be submitted to that [regional planning agency] for review.
 - 1. The [regional planning agency] shall review the proposed ordinance for compliance with this Act and the rules pursuant to this Section and for consistency as provided in paragraph (6)(e) of this Section.
 - 2. The [regional planning agency] shall approve or reject the proposed trip reduction ordinance within [30] days of receipt, and shall notify the local government in writing of its decision and the legal and factual bases therefor within [10] days of its decision.
 - 3. The [regional planning agency] shall submit a copy of every proposed trip reduction ordinance, and of its decision thereon, to the Task Force within [10] days of its decision.
 - 4. A local government whose proposed trip reduction was rejected pursuant to this paragraph may appeal the decision of the [regional planning agency] to the Task Force, which shall review the proposed ordinance in the same manner as proposed ordinances submitted pursuant to subparagraph (6)(g) below.
 - 5. Any purported adoption of a trip reduction ordinance that must be submitted to a [regional planning agency] pursuant to this subparagraph (6)(f) but which was not so submitted or was submitted and rejected is void.
- (g) shall, before it may be adopted by a local government not within the jurisdiction of a [regional planning agency], be submitted to the Task Force for review.
 - 1. The Task Force shall review the proposed ordinance for compliance with this Act and the rules pursuant to this Section and for consistency as provided in paragraph (6)(e) of this Section.
 - 2. The Task Force shall approve or reject the proposed trip reduction ordinance within [30] days of receipt, and shall notify the local government

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in writing of its decision and the legal and factual bases therefor within [10] days of its decision.

3. The Task Force shall retain a copy of every proposed trip reduction ordinance and the decision thereon, whether rendered by the Task Force or by a [regional planning agency].
4. Any purported adoption of a trip reduction ordinance that must be submitted to the Task Force pursuant to this paragraph but which was not so submitted or was submitted and rejected is void.

(7) A trip reduction ordinance shall:

- (a) apply to all major employers and to all employers at major worksites, except that it shall not apply to construction worksites when the expected duration of the construction project is less than two years;

◆ Since major worksites have essentially the same vehicle use impact as a major employer (100 or more employees arriving at a building or complex of buildings during the major commuting hours), employers of any size located at major worksites are subject to this Section and to trip reduction ordinances to the same degree as major employers. Though there are obvious benefits for a small employer to locate at a major worksite, there is a possibility that if a trip reduction ordinance is perceived as onerous by small employers located at major worksites, some such employers will move to separate, non-major, worksites, thus increasing sprawl. The best preventative measure is to adopt a fair and balanced trip reduction ordinance and to monitor the land market for signs of such a movement of employers.

- (b) be designed to achieve reductions in the proportion of SOV commute trips and commute trip vehicle miles traveled per employee by employees of major public- and private-sector employers in the local government;
- (c) include at least the following minimum provisions:
 1. a means for determining initial year values of the proportion of SOV commute trips and commute trip vehicle miles traveled per employee;
 2. goals for reductions in the proportion of SOV commute trips and commute trip vehicle miles traveled per employee;
 3. a means for determining compliance with, and/or progress toward meeting, commute trip reduction goals;
 4. designation of commute trip reduction zones, if any exist;

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5. designation of transit zones, if any exist;
 6. provisions for monitoring and review of the progress toward the aforementioned goals within commute trip reduction zones;
 7. requirements for major employers and employers at major worksites to adopt and implement commute trip reduction programs, pursuant to paragraph (9) of this Section;
 8. a commute trip reduction program for employees of the local government;
 9. provisions for periodic review of the compliance of employers with their commute trip reduction programs, pursuant to paragraph (9) of this Section;
 10. provisions for enforcement pursuant to Chapter 11 of this Act for the failure of a major employer or employer at a major worksite to implement a commute trip reduction program or to modify its commute trip reduction program as may be necessary. Such provisions shall take into account the nature, seriousness, and circumstances of the violation, whether there is a pattern of noncompliance, and efforts which are being made to achieve compliance;
 11. an appeals process by which employers who, as a result of special characteristics of their business or its locations, would be unable to meet the requirements of the trip reduction ordinance, may obtain waiver or modification of those requirements; and
 12. a review of local parking policies and ordinances as they relate to employers and major worksites, and of any revisions necessary to comply with commute trip reduction guidelines.
- (8) A local government that has adopted a trip reduction ordinance that designates commute trip reduction zones and/or transit zones may:
- (a) amend its land development regulations to establish lower minimum parking-area requirements in transit zones and/or commute trip reduction zones;
 - (b) amend its land development regulations to establish maximum parking-area limits in transit zones and/or commute trip reduction zones; or
 - (c) amend other ordinances and regulations, such as on-street parking regulations, with the purpose of reducing the number of parking spaces available and/or the times of their availability within transit zones and/or commute trip reduction zones.

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- (9) Every major employer, and every employer at a major worksite, in a local government that has adopted trip reduction ordinance shall adopt and implement a trip reduction program.
- (a) A commute trip reduction program shall consist of, at a minimum:
1. designation of a transportation coordinator, whose name, location, and telephone number must be displayed prominently at each affected worksite;
 2. regular distribution of information to employees regarding alternatives to SOV commuting;
 3. annual review of employee commuting;
 4. annual reporting to the local government, consistent with the method established in the trip reduction ordinance, of compliance with the SOV reduction goals; and
 5. implementation of one or more transportation demand management measures designed to achieve the applicable commute trip reduction goals adopted by the local government.
- (b) The local government shall review the initial commute trip reduction program of each major employer and each employer at a major worksite within [90] days of receipt of the program, and shall annually review each such employer's compliance with its commute trip reduction program.
1. The local government shall notify the employer in writing of the findings of its review within [10] days of its conclusion.
 2. If the jurisdiction finds that the program is not likely to meet the applicable commute trip reduction goals, the local government shall work with the employer to modify the program as necessary.
 3. The employer shall implement the commute trip reduction program within [three] months of receiving notice of its approval of the program.
- (c) If a major employer or employer at a major worksite does not meet the applicable commute trip reduction goals, then the local government shall, after consulting with the employer, propose modifications to the commute trip reduction program and direct the employer to revise its program with [30] days to incorporate those modifications, or alternative modifications proposed by the employer that the local government determines to be appropriate.

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- (d) Failure to modify the program as provided in subparagraph (9)(c) above shall constitute a violation of land development regulations pursuant to Chapter 11 of this Act.
 - (e) Employers or owners of worksites may form or use existing transportation management associations to assist members in developing and implementing commute trip reduction programs.
- (10) Every local government that adopts a trip reduction ordinance shall submit an annual progress report to the Department, in a format established by the Department. The report shall describe progress in attaining the applicable commute trip reduction goals for each commute trip reduction zone and commute trip reduction program, and shall highlight any problems being encountered in achieving the goals. The local government shall publish the progress report and make it available to the public.
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*Commentary: Historic and Architectural Design Review*²⁰

Historic preservation and architectural design review have increasingly become a standard component of communities' suite of land development regulations. With the assistance of historic preservation and architectural design controls, communities can maintain and foster their unique identities, which in turn can help to make the community a desirable place to live and do business. Historic preservation ordinances²¹ seek to preserve the *existing* historic character of structures or sites that may be associated with an important historic event or person or are representative of a certain architectural type or period. Design review controls²² are concerned with the aesthetics of *proposed* residential and nonresidential development.

Historic preservation controls are typically applied to an existing area known as an "historic district" that contains buildings or structures with identifiable historic or architectural characteristics,

²⁰See generally Christopher J. Duerksen, "Historic Preservation," in Edward Ziegler, ed., *Rathkopf's Law of Zoning and Planning*, Vol. 1 (Eagan, Minn.: West Group, 1992 Supp.), Ch.15; and Gordon L. Ohlsson, "Aesthetic Zoning" in Eric Damian Kelly, gen. editor, *Zoning and Land Use Controls*, Vol. 2 (New York: Matthew Bender, 1991), Ch. 16.

²¹See generally Christopher J. Duerksen, ed., *A Handbook on Historic Preservation Law* (Washington, D.C.: Conservation Foundation, 1983); Richard J. Roddewig, *Preparing a Historic Preservation Ordinance*, Planning Advisory Service Report No. 374 (Chicago: American Planning Association, 1983); Nancy Benzinger Brown, "Historic Preservation Legislation," in *Modernizing State Planning Statutes: The Growing SmartSM Working Papers*, Vol. 3 , Planning Advisory Service Report No. ____, (Chicago: American Planning Association, forthcoming).

²²See generally Mark L. Hinshaw, *Design Review*, Planning Advisory Service Report No. 454 (Chicago: American Planning Association, February 1995); Peggy Glassford, *Appearance Codes for Small Communities*, Planning Advisory Service Report No. 379 (Chicago: American Planning Association, October 1983); Brenda Case Lightner, "Survey of Design Review Practices" *PAS Memo* (Chicago: American Planning Association, January 1993).

Appendix D
City of Cambridge's Municipal Code
Title 19 Vehicles and Traffic

Chapter 10.18 - PARKING AND TRANSPORTATION DEMAND MANAGEMENT PLANNING; PARKING SPACE REGISTRATION

Sections:

10.18.010 - Purpose.

- (a) It is the purpose of this Chapter to regulate and control atmospheric pollution from motor vehicles by formalizing parking and transportation demand management planning, programs, and coordination which have been ongoing for a number of years. This Chapter will reduce vehicle trips and traffic congestion within the City, thereby promoting public health, safety, and welfare and protecting the environment. This Chapter requires parking and transportation demand management (PTDM) plans for commercial parking facilities and other types of non-residential parking facilities over a specified size as set forth in 10.18.050 and 10.18.070. This Chapter also establishes a process whereby City officials will be able to track the number, use and location of off-street parking spaces in the City.
- (b) A Parking and Transportation Demand Management Planning Officer will be designated by the City Manager with the responsibility for reviewing, conditioning, approving and/or denying PTDM plans. Any project subject to the requirements of this Chapter shall not be qualified to receive a permit from the Planning Board, a commercial parking permit from the Commercial Parking Control Committee, a special permit or variance from the Board of Zoning Appeal, a building permit from the Commissioner of Inspectional Services, a certificate of occupancy from the Commissioner of Inspectional Services, or an operating license from the License Commission absent written approval of its PTDM plan from the PTDM Planning Officer or evidence of registration of its parking spaces with the Department of Traffic, Parking, and Transportation.

(1211, Added, 11/16/1998)

10.18.020 - Definitions.

"Commercial Parking Space" means a parking space available for use by the general public at any time for a fee. The term shall not include (i) parking spaces which are owned or operated by a commercial entity whose primary business is other than the operation of parking facilities, for the exclusive use of its lessees, employees, patrons, customers, clients, patients, guests or residents but which are not available for use by the general public; (ii) parking spaces restricted for the use of the residents of a specific residential building or group of buildings; (iii) spaces located on public streets; or (iv) spaces located at a park-and-ride facility operated in conjunction with the Massachusetts Bay Transportation Authority.

"Commercial Parking Facility" means a parking facility owned or operated by a commercial entity whose primary business is the operation of a parking facility and at which there are at least five (5) Commercial Parking Spaces.

"Commercial Parking Permit" means a (i) permit issued under chapter 10.16 of the Cambridge Municipal Code, authorizing the use of a designated number of parking spaces at a specified location as Commercial Parking Spaces; (ii) a permit or approval issued prior to the effective date of this Chapter pursuant to the Procedures, Criteria, and Memorandum of Agreement dated November 15, 1984; (iii) a Controlled Parking Facility Permit that expressly authorizes use of the parking facility for Commercial Parking Spaces; or (iv) a letter from the Director confirming the number of spaces at a specified location that were in existence and being used as Commercial Parking Spaces as of October 15, 1973.

"Controlled Parking Facility Permit" (CPFP) means a permit issued by the Director prior to the effective date of this Chapter, which authorized the construction or operation of a parking space or the construction, operation, or modification of a parking facility.

"Determination of Exclusion" means a determination made by the Director that a parking facility or a parking space did not require a controlled parking facility permit.

"Director" means Director of the Cambridge Department of Traffic, Parking, and Transportation.

"Effective Date" means November 16, 1998, the original date of final adoption of this Chapter of the Cambridge Municipal Code.

"Existing Parking Facility" shall mean a parking facility for which (i) a certificate of occupancy was issued by the Commissioner of Inspectional Services; (ii) an operating license was issued by the License Commission; or (iii) the Director issued a letter confirming the number of spaces at that location which spaces were in existence and being used as commercial parking spaces as of October 15, 1973 (a "Director's Letter").

"New Project" means a project to construct or operate parking spaces within a new facility or an existing parking facility which will cause such facility to have a net increase in the number of spaces for which a certificate of occupancy, operating license, variance, special permit, or Director's Letter has not been issued as of the effective date of this Chapter and which is not a park-and-ride facility operated in conjunction with the Massachusetts Bay Transportation Authority.

"Parking Facility" means any lot, garage, building or structure or combination or portion thereof, on or in which motor vehicles are parked, except any such facility used in association with or by a municipal police or fire station, and in the case of university or college campuses, the stock of parking spaces maintained within the City by the university or college which supports university or college activities within the City.

"Person" means and includes a corporation, firm, partnership, association, executor, administrator, guardian, trustee, agent, organization, any state, regional or political subdivision, agency, department, authority or board, and any other group acting as a unit, as well as a natural person.

"Planning Officer" means the City official responsible for PTDM plan reviews.

"PTDM" means Parking and Transportation Demand Management.

"Small Project" means a project to construct or operate five (5) to nineteen (19) non-commercial, non-residential parking spaces within a new facility or an existing parking facility which will cause such Facility to have a net increase in the number of spaces for which a certificate of occupancy, operating license, variance, special permit, or Director's Letter has not been issued as of the effective date of this Chapter. To qualify as a Small Project, the total number of non-commercial, non-residential parking spaces at the parking facility must remain at or below nineteen (19).

(Ord. 1287, Amended, 09/12/2005; 1252, Amended, 09/24/2001; 1211, Added, 11/16/1998)

10.18.030 - PTDM Planning Officer.

Within thirty (30) days of the effective date of this Chapter, the City Manager shall designate a Parking and Transportation Demand Management Planning Officer who shall have responsibility for reviewing, conditioning, approving, and/or denying PTDM plans and who shall report to the City Manager. Said officer shall be a Cambridge resident within six months of employment in this position. Prior to rendering his/her determination(s), the Planning Officer shall consult with the PTDM plan applicant, the Director and the Assistant City Manager for Community Development.

(1211, Added, 11/16/1998)

10.18.040 - Registration of All Parking Spaces.

- (a) No person shall build, expand, or reconfigure a parking facility for non-residential parking spaces resulting in a net increase in the number of parking spaces or a change in the use of such spaces

based on the categories of use listed below at paragraphs b(v) and (vi), without first submitting a parking registration form to, and obtaining acceptance from, the Director.

- (b) The registration form shall be prepared by the Director and shall be available at the offices of the Department of Traffic, Parking and Transportation. The form will require the following information:
 - (i) name and address of parking facility owner;
 - (ii) name and address of parking facility operator;
 - (iii) address of parking facility;
 - (iv) total number of existing parking spaces;
 - (v) number of existing parking spaces in each of the following categories:
 - residential
 - commercial
 - non-commercial
 - customer
 - employee
 - patient
 - student
 - client
 - guest
 - (vi) number of parking spaces proposed to be added to the parking facility in each of the following categories:
 - residential
 - commercial
 - non-commercial
 - customer
 - employee
 - patient
 - student
 - client
 - guest
 - (vii) identification of any existing parking permits for the parking facility; and
 - (viii) explanation of any enforcement actions against the parking facility.
- (c) The Director shall accept or return a registration form to the registrant with a request for additional information within thirty (30) days after the form was filed.

- (d) The License Commission shall not issue a license and the Commissioner of Inspectional Services shall not issue a building permit or certificate of occupancy for a parking facility subject to this section without evidence (i) that the registration form has been accepted by the Director; and (ii) if required, that the facility has a PTDM Plan approved by the Planning Officer.

(1252, Amended, 09/24/2001; 1211, Added, 11/16/1998)

10.18.050 - Parking and Transportation Demand Management Plans.

- (a) No person shall build, expand, or operate a parking facility subject to the Parking and Transportation Demand Management (PTDM) Plan requirements of this Chapter absent a PTDM Plan approved by the Planning Officer.
- (b) The PTDM requirements of this Chapter shall apply to each of the following:
- (i) any commercial parking facility for which a certificate of occupancy or operating license, variance or special permit was not obtained prior to the effective date of this chapter;
 - (ii) an existing commercial parking facility at which the number of parking spaces is increased after the effective date of this chapter;
 - (iii) any parking facility at which the use of existing or permitted parking spaces is changed to commercial use after the effective date of this chapter;
 - (iv) any new project to build or create by change of use twenty or more non-residential parking spaces; and
 - (v) any new project to expand an existing parking facility resulting in a total number of non-residential parking spaces of twenty (20) or more.
- (c) The PTDM Plan shall be designed to minimize the amount of parking demand associated with the project and reduce single-occupant vehicle trips in and around Cambridge. The PTDM Plan shall be based on the following facts, projections and commitments:
- (i) Facts and Projections:
 - nature of development and property use;
 - proximity of project to public transit and other non-Single-Occupant Vehicle facilities;
 - availability of and accessibility to offsite parking spaces which could serve the project;
 - number of employees and their likely place of origin; and
 - type and number of patrons/users of proposed parking supply and their likely place of origin.
 - number of vehicle trips expected to be generated by the project and description of measures to reduce associated traffic impacts on Cambridge streets; and
 - other factors published by the Planning Officer.
 - (ii) Commitments:
 - commitment to work with the Cambridge Office of Work Force Development;
 - commitment to implement vehicle trip reduction measures including some or all of the following:
 - subsidized MBTA passes and other incentives; shuttle services; ride-sharing services; bicycle and pedestrian facilities; flexible working hours; preferential parking for Low Emission Vehicles/Zero Emission Vehicles/bicycles/carpools/vanpools (Note: this list is not

meant to preclude implementation of other types of vehicle trip reduction measures). This commitment must be accompanied by a detailed description of the measures proposed to be implemented; and

commitment to establish and make reasonable efforts to achieve a specified, numeric reduction (or percent reduction) in single-occupant vehicle trips in and around Cambridge. The percent reduction will be based on PTDM practices successfully implemented in reasonably comparable environments and as identified in professional and academic literature and based on analysis of existing trip reduction measures in Cambridge.

Each PTDM Plan shall identify the total number of existing and proposed parking spaces at the facility and specify how many existing and proposed spaces fall within each of the following categories (explain how many spaces are used for multiple purposes):

- residential
- commercial
- non-commercial
- customer
- employee
- patient
- student
- client
- guest

Where the parking facility includes or proposes a combination of commercial and non-commercial parking spaces, the Plan shall specify how the parking facility will prevent commercial use of the non-commercial parking spaces.

Each PTDM Plan shall contain the following certification signed by an authorized corporate officer:
"I hereby certify that a commercial parking permit has been obtained for each space being used for commercial parking. None of the other existing or proposed parking spaces at this parking facility have been or will be available as commercial parking spaces until a commercial parking permit therefor has been obtained."

- (d) The Planning Officer shall review, condition, approve and/or deny the PTDM Plan based on the above-listed facts, projections, and commitments. The Planning Officer shall issue his/her decision in writing within 60 days of receipt of the proposed PTDM Plan. The required time limit for action by the Planning Officer may be extended by written agreement between the proponent and the Planning Officer. Failure by the Planning Officer to take final action within said sixty (60) days or extended time, if applicable, shall be deemed to be approval of the proposed PTDM plan. If the project proponent elects to make a request pursuant to 10.18.060, the decision of the Planning Officer shall be expanded to include a recommendation about whether offsite parking should be allowed at distances greater than those allowed in the Zoning Ordinance and/or whether fewer parking spaces than the minimum required in the Zoning Ordinance should be allowed. Decisions of the Planning Officer may be appealed by the project proponent to a review committee composed of the City Manager, or his designee, and two other City staff members designated by the City Manager none of whom may have participated in the initial review of the Plan.
- (e) The Planning Officer shall also make available sample PTDM plans which a project proponent may adapt for their project, such to approval by the Planning Officer.

- (f) No permit, commercial parking permit, special permit, variance, building permit, certificate of occupancy, or operating license shall be issued for any project subject to 10.18.050 by the Planning Board, Commercial Parking Control Committee, Board of Zoning Appeal, Commissioner of Inspectional Services, or License Commission absent a written decision indicating approval from the Planning Officer of the project proponent's PTDM Plan. Any such permit or license shall be consistent with, and may incorporate as a condition, the decision of the Planning Officer and shall include written notice of the requirements of 10.18.050 (g) and (h), below. Nothing in this ordinance shall be construed to limit the power of the Planning Board or Board of Zoning Appeal to grant variances from or special permits under the provisions of the Zoning Ordinance. No project proponent shall be required by the Planning Officer to seek such relief under the Cambridge Zoning Ordinance.
- (g) Approvals issued by the Planning Officer shall be automatically transferrable by and among private parties, provided that the proposed new owner (the "Transferee") shall continue to operate under the existing PTDM Plan and shall submit to the Planning Officer within thirty (30) days of the title transfer a certification that the existing PTDM plan will remain in effect. The certification shall be submitted on a form issued by the Planning Officer and shall certify that such Transferee commits to implement the existing PTDM plan, as approved; and acknowledges that failure to implement the plan is subject to the enforcement provisions of this Chapter. Where such certification is submitted, the approved plan shall remain in effect as to the Transferee. The Transferee may elect instead to and consult with the Planning Officer within thirty (30) days of title transfer regarding appropriate revisions to the existing plan. Based on such consultation, the Planning Officer may require information from the Transferee concerning proposed changes in use of the parking facility and associated buildings and the relevant facts and projections regarding the proposed changes. Within thirty (30) days of receipt of such information, the Planning Officer may issue a written approval of the revised plan and obligations to the Transferee, or the Planning Officer may require submittal of a new PTDM Plan from the Transferee for review, condition, approval and/or denial. Until such time as a new or revised plan has been approved, the existing PTDM plan shall remain in effect.
- (h) Each PTDM Plan approval issued by the Planning Officer shall contain, at a minimum, the following conditions:
 - (i) The parking facility owner and operator each commit to implement all elements of the PTDM Plan, as approved, including annual reporting requirements, and to maintain records describing implementation of the Plan;
 - (ii) The City shall have the right to inspect the parking facility and audit PTDM implementation records; and
 - (iii) The parking facility owner and operator each commit to notify and consult with the Planning Officer thirty (30) days prior to any change in ownership, use or operation of the facility.

(1252, Amended, 09/24/2001; 1211, Added, 11/16/1998)

10.18.060 - Reduction in Minimum Parking and Maximum Distance Requirements.

- (a) A project proponent may elect to request that the Planning Officer include as an element of its PTDM Plan a plan for fewer parking spaces than the minimum set forth in the Zoning Ordinance. Upon the written request of the project proponent, based on an evaluation of the facts, projections, and commitments listed at 10.18.050 (c), the Planning Officer may make a written recommendation about the maximum number of parking spaces for the project. This recommendation shall remain subject to review and approval by the Planning Board or Board of Zoning Appeal as appropriate.
- (b) A project proponent may elect to request that the Planning Officer include as an element of its PTDM Plan a plan for utilizing off-site parking spaces that are farther from the project site than the maximum distance requirements set forth in the Zoning Ordinance. Upon the written request of the project proponent, based on an evaluation of the facts, projections, and commitments listed at 10.18.050 (c), the Planning Officer may make a written recommendation about how many parking

spaces serving the project may be appropriately located at an off-site location and at what distance from the project site. This recommendation shall remain subject to review and approval by the Planning Board or Board of Zoning Appeal as appropriate.

(1211, Added, 11/16/1998)

10.18.070 - Requirements Applicable to Small Projects.

The owner or operator of each Small Project shall implement at least three (3) PTDM measures and maintain records of such implementation. A list of acceptable types of measures may be obtained from the Traffic, Parking and Transportation Department, the Inspectional Services Department, the Community Development Department, or the License Commission. The Planning Officer shall create and periodically update this list, which shall include: T-pass subsidies; bicycle parking; changing facilities; carpools/vanpools; financial incentives not to drive alone; or other similar measures.

(1252, Amended, 09/24/2001; 1121, Added, 11/16/1998)

10.18.080 - Enforcement.

- (a) The Director shall enforce the provisions of this Chapter. If the Director has reason to believe that any provision of this Chapter is being violated, the Director shall investigate the possible violation. If after investigation the Director determines that any provision of this Chapter is being violated, s/he shall provide a first written notice of violation to the person charged with the violation, or the duly authorized representative thereof, of the determination of violation and shall order that the violation cease within thirty (30) days of the issuance of the first written notice. If the violation is not cured within the thirty (30) days after issuance of the determination of violation, the Director may proceed to assess the fines established in this chapter as well as any other remedies available to the city. In addition to all other remedies, if the violation has not ceased within thirty (30) days after the first written notice, then the Director may order shutdown of the parking facility. Second or subsequent written notices to a facility for the same violation shall be immediately effective and shall not provide the thirty (30) day opportunity to cure contained in the first written notice. A determination and order of the Director may be appealed to the City Manager by the person charged with the violation within thirty (30) days of issuance of the Director's determination and order.
- (b) In addition to other remedies available to the City, any person who builds or modifies a parking facility without complying with the provisions of this Chapter shall be subject to a fine of up to \$10.00 per day per parking space for every day that such parking space was operated without a registration accepted by the Director or without a PTDM Plan approval issued by the Planning Officer or in non-compliance with an approved PTDM Plan. On a determination, after investigation, by the Director that this Chapter is being violated, and the exhaustion of any appeal to the City Manager in accordance with (a) above, the Director shall take steps to enforce this chapter by causing complaint to be made before the district court and/or by applying for an injunction in the superior court.
- (c) In addition to other remedies available to the City, a determination that a facility is operating in violation of the provisions of this Chapter shall be ground for revocation by the Director of the facility's parking permit or other form of approval.
- (d) The Planning Officer shall have independent authority to inspect a parking facility and audit its records to determine whether it is in compliance with its PTDM Plan. The Planning Officer shall issue a finding of non-compliance in writing and provide copies to the parking facility owner and operator and to the Director.

(1211, Added, 11/16/1998)

10.18.090 - Evaluation.

The PTDM Planning Officer shall prepare a report annually on the status and effectiveness of the implementation of this Ordinance.

(1300, Amended, 09/11/2006; 1252, Amended, 09/24/2001; 1211, Added, 11/16/1998)

Appendix E

Town of Marshfield's Zoning Bylaw
Article 11 Special Permit Conditions
Section 11.10 Traffic Impact Study

- i. The principal dwelling shall be occupied by the applicant/owner as his or her principal residence;
 - j. Compliance with the State Building Code.
4. Plan Requirements - The applicant shall comply with Section 10.10 Special Permits of this by law. In addition, the following information shall be furnished:
- a. the existing and proposed square footage of each dwelling unit;
 - b. the existing and proposed floor layouts of each unit;
 - c. any proposed changes to the exterior of the building;
 - d. all plans should be prepared by a registered land surveyor; and
 - e. requirements for open space should be maintained.
5. Transfer of Ownership of a Dwelling with an Accessory Apartment - The Special Permit for an accessory apartment in a single family dwelling shall terminate upon the sale of property or transfer of title of the dwelling.

The new owner(s) shall be required to apply for a new approval of a Special Permit for an accessory apartment and shall submit a written request to the SPGA.

6. Recertification of Owner Occupancy - Not later than January 31 of each year following issuance of a Special Permit for an accessory apartment, the owner of the premises must certify under the pains and penalties of perjury on forms to be available at the office of the Building Inspector that the premises continue to be occupied by the owner as his or her principal residence. Failure to recertify in a timely manner shall result in the automatic termination of the Special Permit.

Section 11.10 Traffic Impact Study – A detailed traffic impact analysis shall be submitted for any application for a development which requires a) a special permit for a principal use within the B-1, B-2 or I-1 zoning district, or b) which would have an anticipated average peak hour trip generation in excess of 80 vehicle trip ends or an average weekday generation in excess of 800 vehicle trip ends; except that the requirement for traffic impact analysis may be waived where it is found by the Board that a traffic study for the area impacted by the proposed project has been completed in the past 12 months and is acceptable to assess the impacts of the proposed project; or where it is determined by the Board that the primary traffic impacts of the proposed development affect Route 139 and where the Town and/or

MassHighway has engineered plans for traffic mitigation that are in the planning or implementation stage, and where the applicant is willing to contribute funds to a traffic mitigation fund in an amount at least equal to the cost of a traffic impact analysis, as determined by the Board upon consultation with at least the Building Inspector, Board of Public Works, the Planning Board and the applicant. Calculation of anticipated average peak hour trip generation and average weekday generation shall be determined as follows:

1. Determination of Traffic Impact:
 - a. In determining traffic generation under this provision, the data contained in the most recent edition of The Institute of Transportation Engineers' publication "Trip Generation" shall be used.
 - b. If a principal use is not listed in said publication, the Special Permit Granting Authority (SPGA) may approve the use of trip generation rates for another listed use that is similar, in terms of traffic generation, to the proposed principal use.
 - c. If no such listed use is sufficiently similar, a traffic generation estimate, along with the methodology used, prepared by a registered professional engineer experienced and qualified in traffic engineering, shall be submitted for approval by the SPGA.
2. Preparation: The traffic impact analysis shall be prepared by a registered professional engineer experienced and qualified in traffic engineering. Firms and individuals preparing traffic impact analyses for submittal to the Board shall comply with any specific standards or requirements for qualifications as the Board may adopt.
3. Scope of Traffic Impact Study: The traffic impact study shall include the following information:
 - a. Existing traffic conditions: Average daily and peak hour volumes, average and peak speeds, sight distances, accident data for the previous three years, and levels of service (LOS) of intersections and streets likely to be impacted by the proposed development. Generally, such data shall be presented for all streets and intersections adjacent to or within 1000 feet of the project boundaries, and shall be no more than 12 months old at the date of the application, unless other data are specifically approved by the SPGA. Where a proposed development will have an impact on a critical intersection or intersections beyond 1,000 feet of the project boundary, particularly intersections of arterial and collector roadways which are integral to the circulation of the proposed development, the Board may require that such intersections beyond 1,000 feet of the project boundary be included in the analysis of traffic conditions.

- b. Projected traffic conditions for design year of occupancy: statement of design year of occupancy, average annual background traffic growth, impacts of proposed developments which have already been approved or are pending before town boards.
- c. Projected impact of proposed development: Projected peak hour and daily traffic generated by the development on roads and ways in the vicinity of the development; sight lines at the intersections of the proposed driveways and streets; existing and proposed traffic controls in the vicinity of the proposed development; and projected post development traffic volumes and levels of service of intersections and streets likely to be affected by the proposed development (as defined in 3.a. above).
- d. Proposed mitigation: A plan to minimize traffic and safety impacts through such means as physical design and layout concepts, staggered employee work schedules, promoting use of public transit or car pooling, or other appropriate means; and an interior traffic and pedestrian circulation plan designed to minimize conflicts and safety problems. Measures shall be proposed to achieve the following post-development standards:
 - (i) Level of Service (LOS) at nearby intersections shall not be degraded more than one level as a result of traffic generated by the proposed development, nor shall any nearby intersection be degraded below the Level of D.
 - (ii) Adjacent streets shall not exceed design capacity at the peak hour as a result of traffic generated by the proposed development.
 - (iii) Safety hazards shall not be created or added to as a result of traffic generated by the proposed development.
- e. Adequacy of Mitigation: If the proposed mitigation is deemed by the Board to be inadequate to achieve the standards set forward in Sec. 11.10(3)(d) above, the applicant shall provide alternative proposals to meet the standards, including: reduction in the size of the development; change in proposed uses on the site; contributions to off-site street and intersection improvements; or construction of off-site street and intersection improvements. Where the alternative proposals submitted by the applicant are inadequate, and where it is determined by the Board that the primary traffic impacts of the development as proposed affect Route 139 and where the Town and/or MassHighway has engineered plans for traffic mitigation that are in the planning or implementation stage, the applicant may be required as a condition of special permit approval to

contribute funds to a traffic mitigation fund at least equal to \$300.00 per parking space required to serve the proposed use under this bylaw. For purposes of this standard:

- a. "Level of Service" (LOS) shall be determined according to criteria set forth by the most recent edition of the manual of the Transportation Research Board of the National Research Council;
 - b. "Impacted" means intersections projected to receive at least five per cent (5%) of the expected traffic generated by the proposed development, either based upon the total anticipated peak hour traffic generated by the proposed project, or based upon the total anticipated average daily traffic counts generated by the proposed project; and
 - c. "Adequate" shall mean a level of service of "B" or better for rural, scenic and residential streets and for all new streets and intersections to be created in connection with the project; and "D" or better for all other streets and intersections.
4. Administrative Procedures: The Special Permit Granting Authority (SPGA) shall adopt rules relative to the issuance of a special permit and file a copy with the Town Clerk. The SPGA shall follow the procedural requirements for special permits as set forth in Chapter 40A, Section 9. The SPGA shall also impose, in addition to any applicable conditions specified in this bylaw, such applicable conditions as it finds reasonably appropriate to improve traffic flow or conditions, safety, or otherwise serve the purposes of this bylaw. Such conditions shall be imposed in writing and the applicant may be required to post a bond or other surety for compliance with said conditions in an amount satisfactory to the Board. After notice and public hearing, and after due consideration of the reports and recommendations of other town boards and departments, the SPGA may grant such a permit.

(Amended STM 10/27/2014)

Section Curb Cut Bylaw

11.11

1. Applicability and Use - All driveway openings for special permit uses must be approved by the Special Permit Granting Authority (SPGA). The SPGA shall solicit from and consider any comments received by the Board of Public Works in approving or conditioning such a curb cut permit.
2. Required Performance Standards - The following standards shall guide issuance of curb cut permits by the SPGA:
 - a. One curb cut shall be allowed per parcel. If frontage exceeds 600', one additional curb cut may be permitted where it will aid access to and

Chapter Z. Zoning Code

Article III. Establishment of Districts

Sec. 3.1. Classification of districts.

[Amended 12-10-1979 Ord. No. 24676; 10-9-1984 by Ord. No. 25585; 5-24-2010 by Ord. No. 31347; 12-12-1977 by Ord. No. 24266]

Sec. 3.5. Special permits.

3.539. Traffic Safety and Infrastructure Maintenance Fund.

(1) Except as otherwise provided in Sections 8.354, 8.433 and 8.435 and all other relevant provisions of the Riverfront Overlay District and Planned Unit Development sections of this chapter and Section 9.16 of this chapter, the City Council shall, upon the granting of a special permit for an increase in intensity of use, require the applicant to make a contribution into the Traffic Safety and Infrastructure Maintenance Fund ("fund") only for that portion of the new structure or structures which is in excess of the FAR allowed by right or in excess of the FAR which is in existence on the subject lot at the time of the filing of the application for the special permit, whichever is less. The rate of contribution shall be \$3 per square foot of gross floor area of a building whose primary use shall be for office or retail space, and the rate of contribution shall be \$1 per square foot of gross floor area of a building whose primary use will be for multifamily dwelling units in any residential development of 10 or more units or as a research laboratory or structure or for industrial, manufacturing, warehousing, product and material distribution or similar purposes. The primary use of a building or buildings, for the purpose of this section, shall be deemed to be office or retail use where the total square foot floor area used for office or retail purposes, considered either individually or where both uses are added together, constitute more than 20% of the entire gross square foot floor area of the building or buildings in question. Otherwise, the primary use of the building or buildings shall be deemed to be for use other than office or retail, and the rate of contribution shall be \$1 per square foot of gross floor area.

(2) Said Traffic Safety and Infrastructure Maintenance Fund shall be established in the City treasury and shall be kept separate and apart from other moneys by the City Treasurer. Any moneys in said "fund" shall be expended only at the direction of the City Council, for the purposes mentioned below without further appropriation. All moneys which are collected as a result of any contribution to this "fund" shall be transferred to the principal of said "fund", and the City Treasurer shall be custodian of the "fund" and may deposit the proceeds in a bank or invest the same in such securities as are legal for the investment of funds of savings banks under the laws of the commonwealth or in federal savings and loan associations situated in the commonwealth. Any interest earned thereon shall be credited to and become part of such "fund". The "fund" shall be administered by the Traffic Engineer of the City. In matters not exclusively involving traffic regulations and controls, the Traffic Engineer shall consult with and obtain recommendations and cost estimates from the appropriate department heads.

(3) Any moneys in the "fund" may be expended only by a majority vote of the entire membership of the City Council and shall be appropriated only for the purpose of maintaining and improving traffic safety and for the purpose of maintaining and improving the traffic safety infrastructure in the City, which shall include traffic regulation and control, road improvements (including widening), streetlighting, sidewalks and other public services related to the maintenance of traffic safety and safe public utilities, including new construction where needed. The cost of land takings necessary to accomplish any of the purposes listed herein shall also be considered a proper purpose for the expenditure of moneys from this "fund". No moneys in this "fund" shall be used for any purpose not included or directly related to the purposes listed above. Further, moneys contributed by a certain applicant for a special permit for an increase in intensity of use shall be spent on City services related to said development.

(4) The payment of the required contribution shall be made in accordance with the following schedule: An initial payment of 25% of the required amount, and an irrevocable letter of credit for the balance shall be made within 30 days after the issuance of the building permit. Thereafter, the Traffic Engineer may, at any time after the City has awarded any contract for work to be performed pursuant to the terms of the special permit, requisition against the letter of credit an amount of money equal to the full amount of said contract; and thereafter he may requisition, but not more frequently than once every 60 days, up to 25% of the original amount of the entire impact fee, until the entire amount of the impact fee has been paid. In the event that no contract for the performance of such work has been awarded within 90 days after the issuance of said building permit, the Traffic Engineer may, at any time thereafter but not more frequently than once every 60 days, requisition up to 25% of the original amount of the entire impact fee, until the entire amount of the impact fee has been paid. The balance of the entire amount of the impact fee shall be paid no later than one year from the date of the issuance of the building permit or before the issuance of the final permanent occupancy permit, whichever occurs first. All payments received by the City under the provisions of this subsection shall be placed into the "fund", and no moneys in the "fund" shall be expended without the specific approval of the City Council.

(5) (Reserved)[5]

[5] Editor's Note: Former Section 3.539(5), containing provisions in the event that the Traffic Safety and Infrastructure Maintenance Fund has not been authorized or created at the time a payment is due, was repealed 6-10-1991 by Ord. No. 27154.

(6) Said moneys shall be paid by applicants seeking a special permit for increased intensity of use, and provided further that all contributions must be paid into the "fund" before a permanent occupancy permit will be issued.

3.5391.

Order by City Council. Any final action by the City Council shall be in the form of an order which shall include findings of compliance with the matters in Sections 3.53 through 3.539. Such order shall clearly relate to the plans as submitted and shall identify any additional conditions or limitations determined by the City Council to be appropriate.

18.6 Completion of Mitigation Measures

1. No building permit shall be issued to an applicant for a Special Permit under this section until surety has been established in a sum sufficient to ensure completion of said mitigation measures, in the form of a 100% performance bond, irrevocable letter of credit, or escrow agreement. The sum of said surety shall be established by the SPGA and be approved as to proper form and content by the City Solicitor.
2. No occupancy permit, permanent or temporary, shall be issued to an applicant for a Special Permit under this section until all mitigation measures described in the Development Impact Statement and specified as conditions in the Special Permit have met the following conditions:
 - a. All mitigation measures have been certified by the City Engineer as complete and all public improvements have been accepted by the City of Woburn or the Commonwealth of Massachusetts, whichever is applicable;
 - b. All design, construction, inspection, testing, bonding and acceptance procedures have been followed and completed in strict compliance with all applicable public standards and have been certified by the City Engineer.
3. Inflow and Infiltration Fund Exemption: Applicants who receive a Special Permit under this Section which includes conditions which require improvements to the City of Woburn's water and sewer services, and stormwater drainage systems directly implemented by the Applicant, shall not be exempt from the requirements of Title 13, Article 11 of the City of Woburn Municipal Code. (Amended 8/7/2001)

18.7 Traffic Safety and Infrastructure Fund

In lieu of the Applicant performing all or part of the mitigation measures which have been made a condition of the Special Permit, the SPGA may at its sole discretion require the Applicant to make a contribution into the Traffic Safety and Infrastructure Fund (the "fund") equal to three per cent (3%) of the total development costs of the proposed project. In calculating the payment, the Applicant shall not be credited the amount of the contribution required under Title 13, Article 11 of the City of Woburn Municipal Code, or any contribution to roadway, water or sewer

improvements required as a result of the environmental review process of the state or federal government. (Amended 8/7/2001)

1. For purposes of this section, "total development costs" shall mean the total of the cost or value of all development related on site improvements, and shall be determined on the basis of standard building or construction costs, such as published in the Engineering News Record or other source acceptable to the City Engineer, for the relevant type of use or structure.
2. The said Traffic Safety and Infrastructure Fund shall be established in the City Treasury and shall be kept separate and apart from other moneys by the City Treasurer. Any moneys in said fund shall be expended only at the direction of the City Council, with the approval of the Mayor, for the purposes mentioned below. All moneys which are collected as a result of any contribution to this fund shall be transferred to the principal of said fund, and the City Treasurer shall be the custodian of the fund and shall deposit the proceeds in a bank or invest the same in such securities as are legal for the investment of funds of savings banks under the laws of the Commonwealth of Massachusetts, or in federal savings and loan associates situated in the commonwealth. Any interest earned thereon shall be credited to and become a part of such fund. The fund shall be administered by the City Engineer of the City. In all matters, the City Engineer shall consult with and obtain recommendations and cost estimates from the Superintendent of Public Works or other appropriate department heads. (Amended 8/7/2001)
3. Any moneys in the fund shall be expended only by a majority vote of the entire membership of the City Council, with the approval of the Mayor, and shall be appropriated only for the purpose of maintaining and improving the public rights-of-way, the water supply and distribution system, and the storm and sanitary sewer infrastructure of the city, which shall include traffic regulation and control, road improvements (including widening), traffic control signals, street lighting, sidewalks and other public improvements related to traffic safety, the installation or repair of wells for the supply of municipal water, water treatment facilities, water distribution lines, pump stations, reservoirs and other storage water facilities, metering facilities, and other water distribution facilities, and storm and sanitary sewer lines, treatment facilities, drainage and catch basins, or other sewerage facilities, and including new construction where needed. The cost of land takings necessary to accomplish any of the purposes listed herein shall be considered a proper purpose for the expenditure of moneys

from this fund. No moneys in this fund shall be used for any purpose not included or directly related to the purposes listed above. Further, moneys contributed by a specific applicant for a special permit under this section shall be spent on mitigation measures related to said development, specified in the Project Mitigation Statement, and specified as conditions in the special permit.

4. Said moneys shall be paid by applicants seeking a special permit under this section, and provided further that all contributions must be paid into the "fund" before a permanent occupancy permit will be issued.
5. Per written request of the Applicant, the SPGA may allow him/her to directly implement a portion of the proposed mitigation measure identified in the Project Mitigation Assessment, and which have been made conditions of the special permit. The costs of those measures, itemized by cost category, as certified by the City Engineer and approved by the SPGA, shall be credited to the Applicant's payment to the Traffic Safety and Infrastructure Fund, and said payment shall be reduced by the certified amount.
6. The Applicant will be required to provide fee payment and irrevocable letter of credit to the City for the full impact fee as specified above. The credit shall be applied and the amount of the letter of credit reduced at the completion of the project, as certified by the City Engineer.
7. If the Applicant has defaulted on the conditions of the Special Permit, and has not completed the mitigation work before the issuance of a temporary or final occupancy permit, the City shall complete the mitigation measures as much as is practical with funds obtained through the exercise of the letter of credit above.
8. The proponent shall agree to participate in the regional or local transportation management association (TMA) and implement a transportation demand management program that includes the assignment of an Employee Transportation Coordinator to work with the TMA and employees to encourage ridesharing and the use of public transportation.

18.8 Waivers

1. The SPGA, by a majority vote, after receiving Development Impact Statement

Appendix H

Town of Needham's Zoning Bylaw

Chapter 6. Special Regulations

6.8 Intensity of Use Special Permit Criteria for the NEBC, HC-128, and MU-128 Districts.

6.8.1 Applicability

Development in the NEBC, HC-128, and MU-128 districts that seeks a special permit for an increase in the floor area ratio over what is permitted by right shall be subject to the following additional special permit provisions. Provided, however, that nothing contained herein shall impair the rights conferred by Section 1.4 of this By-Law.

- (a) In granting a special permit the Planning Board (Board) shall consider all the factors noted in item b. below, and any proposed mitigation measures proposed by the applicant. The Board shall make findings as to whether the benefits, if any, of the proposed project outweigh the costs and adverse impacts, if any, to the Town. If the Board, after considering all factors noted below, finds that the proposal would benefit the Town, the Board may grant a special permit with or without specific conditions.
- (b) The Board, at a minimum, shall examine the following factors:
- The ability of existing public infrastructure to adequately service the proposed facility without negatively impacting existing uses, including but not limited to, water supply, drainage, sewage, natural gas, and electric services.
 - Impact on traffic conditions at the site, on adjacent streets and in nearby neighborhoods, including the adequacy of roads and major intersections to safely and effectively provide access to and from the areas included in the New England Business Center, Highland Avenue Corridor, and Wexford/Charles Street Industrial District Plan, dated June 2001 (District Plan), and the areas immediately adjacent to said areas.
 - The environmental implications of the proposal and the relationship of the proposal to open space and conservation plans adopted by the Town.
 - The short and long term fiscal implications of the proposal to the Town of Needham.
 - The consistency of the project with the goals of the New England Business Center, Highland Avenue Corridor, and Wexford/Charles Street Industrial District Plan, dated June 2001, as set forth in the document titled "Goals of the June 2001 New England Business Center, Highland Avenue Corridor, and Wexford/Charles Street Industrial District Plan", as adopted by the Planning Board on December 11, 2001 (Goals of the District Plan).
- (c) Consistent with Massachusetts Law, the Board, pursuant to regulations duly promulgated by the Board, may require the applicant to provide financial assistance so that the Board may hire professionals to assist it in the review of any factors noted in items b. and c. above.
- (d) Traffic Improvement Fee. The Board shall determine how many additional square feet of development, above those allowed by right, will be created by the grant of the special permit under this Section 6.8. Applying the Needham Zoning Bylaw Section 5.1.2. Required Parking, the Board shall determine the appropriate number of off-street parking spaces required to service that portion of the development which exceeds that permitted by right. The Board shall then require payment of a one time Traffic Improvement Fee (Fee) of \$1,500

for each such parking space. Said fee shall be paid by the applicant or the applicant's designee to the Town and shall be placed in a special revenue account entitled "Traffic Mitigation Fund" to be used for the purpose of addressing long term traffic improvements clearly related to and directly benefitting the uses within the area covered by the District Plan. The area covered by the District Plan is defined as follows: the districts themselves, the intersections of Kendrick Street and Hunting Road, all portions of the existing intersection of Interstate Route 95 and Highland Avenue, the intersection of Highland Avenue and Needham Street, Highland Avenue between Interstate Route 95 and the city of Newton line, Kendrick Street from the intersection with Hunting Road to the city of Newton line, and any planned or proposed intersection on Interstate Route 95 directly servicing the business zoning districts included in the District Plan.

- (e) Payment of Traffic Improvement Fee (Fee). The applicant may pay the entire Traffic Improvement Fee prior to receipt of the building permit for the project. In the alternative, the applicant may pay in two installments: half prior to receipt of the building permit for the project, and the other half prior to receipt of the occupancy permit for the project, provided, however, that interest on the second installment will accrue at 12% per annum from the date of payment of the first installment and must be paid with the second installment.
- (f) Site mitigation. The payment of the Fee shall not exempt developers from any on-site or access-related traffic improvements required by the special permit, or the site plan review process, and any conditions resulting from said process. Further, payment of the Fee shall not exempt any developer from any costs associated with providing other forms of infrastructure improvements, such as water, sewer, or drainage improvements, in order to provide safe and efficient use of the site.
- (g) The Planning Board shall have the discretion to require at least one or more Transportation Demand Management (TDM) programs to reduce AM peak hour volumes, as listed below:
 - Provide staggered work hours (one hour increments) for at least 10% of the non-management work force.
 - Provide preferential parking locations for all employees arriving in a car pool comprised of at least two licensed drivers.
 - Provide a cash incentive for all car pools of two or more licensed drivers. Said incentive shall be at least 40 dollars per month per car pool.
 - Provide a shuttle or van service to and from public transportation terminals. Said service must have the capacity to accommodate at least 10% of the employees on the largest shift.
 - Provide a work at home option for at least one day per week for at least 10% of the total work force.
 - Provide subsidized public transportation passes of at least 20% of the monthly pass cost.
 - Other programs designed by the applicant and approved by the Planning Board in lieu of or in addition to those listed above.

All TDM plans shall be submitted to the Planning Board as part of the special permit review process relative to this section, i.e., section 6.8. All TDM plans shall be subject to review by the Planning Department every two (2) years for compliance with previously approved TDM program terms and measures. At said time, if a particular TDM program is not being properly implemented, the applicant may revise said TDM program, and the Planning Board may make revisions to maintain or improve its effectiveness. However, to meet the requirements of the special permit all projects must maintain the minimum number of TDM programs required by the Board as long as the development in question is operating under a special permit.

6.9 Outdoor Seating

6.9.1 Applicability

Section 6.9.2 shall apply in any business district in which restaurants serving meals for consumption on the premises and at tables with service provided by waitress or waiter is permitted under Section 3.2.2 of this By-Law.

6.9.2 Basic Requirements Seasonal Outdoor Seating

Seasonal temporary (i.e. April through October) outdoor seating, including but not limited to tables, chairs, serving equipment, planters, and umbrellas, for restaurants serving meals for consumption on the premises and at tables with service provided by waitress or waiter is permitted during normal hours of operation, subject to minor project site plan review with waiver of all requirements of Section 7.4.4 and 7.4.6 except as are necessary to demonstrate compliance with Section 6.9 by the Planning Board in the case of (a) below and the Board of Selectmen in the case of (b) below, provided that:

- (a) It is within the front yard, rear yard, or side yard of the restaurant's owned, licensed, or leased property, but only if said yard abuts a public right-of-way, public property, or other public uses, provided that:
 - (i) Such use is clearly related to the restaurant conducted inside the principal building;
 - (ii) A minimum width of forty-eight inches (48"), or as otherwise provided by law, shall be continuously maintained and unobstructed for the sidewalk or entrance into the principal building, or any other designated sidewalks or pedestrian paths, as shown on the plan provided to the Planning Board;
 - (iii) Outdoor seating is prohibited in designated or required landscaped areas, parking lots, or drive aisles;
 - (iv) Such use does not obstruct or otherwise interfere with visibility at intersections;
 - (v) Except as otherwise provided in subsection (b), the outdoor seating must be on the same lot as the establishment; and;
 - (vi) During all operating hours and thereafter, the area of outdoor seating must be kept clean, including clearing of all tables and removal of all trash.

Appendix I

Town of Dedham's Town Charter

Chapter 39. Finances

Article III. Audits, Expenditures and Collections

§ 39-32. Mitigation Funds Committee.

A. There shall be a Mitigation Funds Committee which shall advise and make recommendations to the Finance and Warrant Committee and Town Meeting as to expenditure of funds on deposit in a mitigation stabilization fund. Said committee shall consist at all times of five voters of the Town and shall be appointed as provided in this section. Except as hereinafter specifically provided, no person, other than a Town Representative, holding an elective or appointive office in the Town nor any employee of the Town shall serve on such committee. The members of the committee shall serve without compensation and may, with the approval of the Town Manager, employ clerical or other assistance subject to available appropriation. The Committee shall choose its own officers.

[Amended 11-17-2014 ATM by Art. 18]

B. The Moderator shall appoint three of the original members of said committee, who shall serve terms of one, two and three years respectively, as the Moderator shall designate; and annually thereafter, immediately following the dissolution of the business session of the Annual Town Meeting, the Moderator shall appoint one new member to said committee who shall succeed the member appointed by him whose term then shall have expired and who shall serve for a term of three years.

C. One member of said committee shall be appointed annually by the Board of Selectmen and such member may but need not be a member of the Board of Selectmen; and one member shall be appointed annually by the Planning Board and such member may but need not be a member of the Planning Board. Members so appointed shall serve terms of one year from the time of the Annual Town Meeting at which they are appointed.

D. Whenever any vacancy shall occur in the office of the committee, whether by reason of death, resignation, removal from the Town, appointment or election to Town office, being hired as a Town employee, or other cause, such vacancy shall be filled by the appointing authority which appointed the member whose position shall have become vacant for the remainder of the unexpired term. A copy of such appointment shall be sent by the appointing authority to the Town Clerk and to the Secretary of the Committee.

E. For the purposes of this section, a mitigation stabilization fund shall be a special purpose stabilization fund established pursuant to G.L. c.40, § 5B into which are deposited payments made by developers or parties to an agreement with the Town for a particular purpose or for unrestricted use, including mitigation payments, infrastructure charges or other payments made by a private party in connection with a regulatory activity or a municipal contract, permit application, or by-law. It shall be the duty of the committee to confer with the Finance and

Warrant Committee and the Director of Finance to determine the amount and availability of mitigation stabilization funds and to confer with Town boards, commissions, committees, officers, employees, and other agencies and departments of the Town, all of which shall cooperate with the committee in arriving at recommendations for expenditure of such funds for the purposes designated in the grant of such funds or, if unrestricted, for general municipal purposes; and all such agencies and departments or other authorities of the Town shall furnish to the committee no later than the fourth Friday in October in each year in which mitigation stabilization funds are available detailed estimates of the expenditures necessary for improvements under their jurisdiction for the ensuing five years. The committee shall prepare, in each year in which mitigation stabilization funds are available, a recommendation of expenditures for mitigation stabilization funds, including recommendations for the scheduling of such expenditures, to the Town Manager, Board of Selectmen and Planning Board by the last Friday in January. In conjunction with the submission of the annual budget message, the Town Manager shall propose a plan for the expenditure of such mitigation stabilization funds and the probable impact of such expenditures on the tax rate of the Town and shall furnish such report and recommendations to the Finance and Warrant Committee.

[Amended 11-17-2014 ATM by Art. 18]

Appendix J

Town of Framingham's Zoning Bylaw

Section III. Overlay Districts

E. Highway Overlay District Regulations

Massachusetts. All additional submittals shall be prepared by qualified professionals. The site plan and its attachments shall at a minimum include the following information where pertinent:

1. a complete list of chemicals, pesticides, herbicides, fertilizers, fuels, and other potentially hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use;
 2. for those activities using or storing such hazardous materials, a hazardous materials management plan shall be prepared and filed with the Hazardous Materials Coordinator, Fire Chief, and Board of Health. The plan shall include:
 - a. provisions to protect against the discharge of hazardous materials or wastes to the environment due to spillage, accidental damage, corrosion, leakage, or vandalism, including spill containment and clean-up procedures;
 - b. provisions for indoor, secured storage of hazardous materials and wastes with impervious floor surfaces;
 - c. evidence of compliance with the Regulations of the Massachusetts Hazardous Waste Management Act 310 CMR 30, including obtaining an EPA identification number from the Massachusetts Department of Environmental Protection;
 - d. proposed down-gradient location(s) for groundwater monitoring well(s), should the Planning Board deem the activity a potential groundwater threat.
- F. The Planning Board shall hold a hearing, in conformity with the provision of MGL Chapter 40A, § 9, within 65 days after the filing of the application and after the review by the Town of Framingham Boards, Departments, and Commissions. Notice of the public hearing shall be given by publication and posting and by first-class mailings to "parties of interest" as defined in MGL Chapter 40A, §11. The decision of the Planning Board and any extension, modification, or renewal thereof shall be filed with the Planning Board and Town Clerk within 90 days following the close of the public hearing. Failure of the Planning Board to act within 90 days of the close of the public hearing shall be deemed as a granting of the permit.

E. HIGHWAY OVERLAY DISTRICT REGULATIONS

1. Purpose and Intent

The purpose of this Section E is to manage the intensity of development and the quality of design along major highway corridors so as to protect the public health, welfare and safety and to enhance the economic vitality of the area. In particular, the provisions of this Section E are designed to limit congestion, to preserve environmental qualities, to improve pedestrian and vehicular circulation, and to provide for mitigation of any adverse impacts resulting from increased development in a complex regional center. In addition to these purposes, the open space and landscaping provisions of this section are designed to foster development that is of high visual and aesthetic quality.

Furthermore, it is a specific purpose of this Section E to establish parallel and consistent zoning regulations for highway corridor areas which are shared by the Towns of Framingham and Natick, in order to achieve a unified development character for such areas and to avoid substantive and procedural conflicts in the regulation and administration of land uses within such areas.

This Section E establishes a system whereby a development may attain a greater density than allowed by right, in return for providing public benefit amenities which compensate for one or more specific effects of increased density. These amenities may include traffic improvements (to accommodate increased traffic), pedestrian or transit improvements (to reduce traffic generation), creation of additional open space and public parks (to compensate for increased congestion and concentration of economic activities), provision of public assembly areas (to foster more balanced development and a sense of community).

The provision of increased development density in return for such amenities is specifically authorized by MGL Ch. 40A, Sec. 9, with respect to open space, traffic and pedestrian amenities, and is also generally authorized for other amenities.

2. Definitions

The following terms shall be specifically applicable to these Highway Overlay District regulations and shall have the meanings provided below.

Bonus: The construction of floor area in excess of that permitted as of right by the applicable FAR maximum.

Bonus Project: A project for which the applicant is seeking any one or more of the bonuses provided in Section 9 of these Regulations.

Change In Use: A change in part or all of an existing structure from one use category or purpose to another use category or purpose. In a mixed or multi-use facility, an exchange or rearrangement of principal use categories or components shall not be construed as a change in use unless the net change in any of the factors in the [Table of Off-Street Parking Regulations, Subsection IV.B.1(a)], requires an addition of 10 or more parking spaces to the amount required by this By-Law prior to the change in use.

Divider Island: A landscaped element running in a direction parallel to a vehicular travel lane, used to separate parallel rows of parking spaces.

Excess Pervious Landscaping: Pervious landscaping exclusive of wetlands, as defined herein, in excess of the amount required by the applicable LSR.

Floor Area Ratio (FAR): The ratio between (1) the gross floor area of all buildings on a parcel, including accessory buildings, and (2) the total area of the parcel.

Landscape Surface Ratio (LSR): The ratio between (1) the area of a parcel devoted to pervious landscaping or natural vegetated areas and (2) the total area of the parcel. Both components of this ratio shall exclude any wetland resource area, as defined in M.G.L. Ch. 131, Sec. 40, except for wetland areas that are located within one hundred feet of an upland area adjoining a developed area of the project.

Major Alteration: An alteration or expansion of a structure or group of structures, on the same lot or contiguous lots, that results in an increase in gross floor area equal to or greater than 15% over the gross floor area in existence on January 1, 1992; or which is equal to or more than eight thousand (8,000) square feet, or, if the parcel on which the subject structure is located is within two hundred (200) feet of a residential district, more than five thousand (5,000) square feet, which ever is the lesser amount.

Minor Alteration: An alteration or expansion of a structure or group of structures, on the same lot or contiguous lots, that results in an increase in gross floor area of less than 15% over the gross floor area in existence on January 1, 1992; or which is less than eight thousand (8,000) square feet, or, if the parcel on which the subject structure is located is within two hundred (200) feet of a residential district, less than five thousand (5,000) square feet, which ever is the lesser amount.

Nonbonus Project: A project for which the applicant is not seeking a bonus.

Open Space Public Benefit Amenity: A public benefit amenity in the form of a park or excess pervious landscaping, available for passive or active recreation, or leisure use, by the public.

Parcel: All lots utilized for any purpose in connection with creating a development, e.g. buildings, parking and detention basins.

Park: A continuous area of open space which is directly accessible to the public for scenic, recreational or leisure purposes.

Pedestrian Circulation Improvement: A public benefit amenity in the form of a pathway, off-site sidewalk or pedestrian bridge designed to facilitate pedestrian movement.

Pedestrian Bridge: A structure designed to convey pedestrians over a watercourse, railroad, or public or private right of way.

Pedestrian Tunnel: A structure designed to convey pedestrians under a watercourse, railroad, or public or private right of way.

Pervious Landscaping: Area that is principally covered with natural materials such as grass, live plants or trees.

Public Assembly Space: A room or facility, such as a meeting room, theater, amphitheater or auditorium, which is available on a not-for-profit basis for use by members of the public for civic and cultural events.

Public Benefit Amenity: An improvement, facility or financial contribution for the benefit of the general public, provided in connection with a development in order to qualify for an increase over the Base FAR.

Public Transit Endowment: A contribution to a trust fund, maintained by the Town of Framingham or another governmental body designated by the Board of Selectmen, established for the purpose of providing long-term financial support for local or regional transit systems serving the Regional Center district.

Service Road: A road that is designed to provide access to abutting properties so that the volume of traffic entering onto or exiting from major roadways is reduced.

Terminal Island: A landscaped element running in a direction parallel to individual parking spaces and having a minimum length equal to the length of any abutting parking space found at the end of a row.

Transit Amenity: A public benefit amenity which contributes to the use and/or long-term availability of public transit and is either a transit-related lane widening or public transit endowment.

Transit-Related Lane Widening: A new or expanded lane on an existing street, designed and reserved for use by high occupancy vehicles, such as buses and vans.

3. Establishment Of Districts

a. General

The Highway Overlay Districts are established as districts which overlay nonresidential zoning districts abutting major arterial highways. There are two such overlay districts: the **REGIONAL CENTER (RC)** District and the **HIGHWAY CORRIDOR (HC)** District.

b. Regional Center (RC) District

1) The RC district shall be bounded as follows:

- Easterly by the Framingham-Natick Town line;
- Southerly by the boundary line between the General Business district and the R-1 Single Residence district on the southerly side of Worcester Road (State Route 9);
- Westerly by the intersection of Worcester Road and Cochituate Road (Route 30);
- The Northerly boundary shall include all parcels, or groups of contiguous parcels serving a common use, whether or not in common ownership, which are used for non-residential purposes as of January 1, 1992 and any portions of which are located within 200 feet of that portion of the northerly right-of-way of Cochituate Road, between Worcester Road (Route 9) and the Framingham-Natick Town line.

2) If, as of January 1, 1992, any portion of the area of a parcel falls within the RC district, then the entire parcel shall be deemed to fall within the district.

c. Highway Corridor (HC) District

The HC District shall include all parcels, or groups of contiguous parcels serving a common use, whether or not in common ownership, which are used for non-residential purposes as of January 1, 1992 and any portions of which are located within 200 feet of the right-of-way of Worcester Road (Route 9), but excluding (a) parcels that are included in

the RC district as set forth above; (b) parcels located on the northerly side of Worcester Road between Edgell Road and the westerly ramp leading onto Route 9 (the Framingham Center); (c) the parcels known as the Framingham Industrial Park; and (d) and the parcels known as 9/90 Crossing.

d. Relationship to Underlying Districts

- 1) The Highway Overlay Districts shall overlay, all underlying districts, so that any parcel of land lying in a Highway Overlay District shall also lie in one or more of the other zoning districts in which it was previously classified, as provided for in this Zoning By-Law.
- 2) All regulations of the underlying zoning districts shall apply within the Highway Overlay Districts, except to the extent that they are specifically modified or supplemented by other provisions of the applicable Highway Overlay District.
- 3) Requirements for off-site contributions under Site Plan Review:
 - a) For non-bonus projects, the requirements of Sections VI.F.6(a) and VI.F.8.(c) regarding contributions for off-site improvements shall apply.
 - b) For bonus projects which comply in all other respects with the requirements of this Section E. and other provisions of the By-Law, the provisions of this Section E. regarding contributions for off-site improvements and public benefit amenities shall supersede and replace the requirement for off-site improvements under Section VI.F.6.(a) and VI.F.8.(c).

4. Use Regulations

a. General

- 1) The Highway Overlay Districts are herein established as overlay districts. The underlying permitted uses are permitted. However a developer must meet the additional requirements of this Section E.
- 2) Lots in a Highway Overlay District exclusively used or zoned for single or two family residential development are exempt from these regulations, regardless of the underlying Zoning District classification.

b. Multiple Use Developments

Multiple use developments are specifically allowed in a Highway Overlay District to the extent that each individual use is allowed in the district.

5. Intensity Regulations

a. Base Floor Area Ratio (FAR) for Nonresidential Development

For any nonresidential development, the floor area ratio (FAR) shall not exceed 0.32, except as modified below in this section.

b. Increase in FAR for New Construction with Public Benefit Amenities in the RC District

The Planning Board may, by Special Permit, grant an increase in the maximum floor area ratio above 0.32, up to a maximum FAR of 0.40, for parcels located in the Regional Center (RC) zoning district, subject to the following requirements:

- 1) Increased pervious landscape surface shall be provided in accordance with Section 6(b) of these Highway Overlay Districts Regulations.
- 2) Public benefit amenities shall be provided as required herein, and the increase in permitted floor area shall be determined in accordance with the schedule of bonuses set forth in Section 9 of these Highway Overlay Districts Regulations. A FAR increase shall be granted only if the Board makes the Findings required in sub-paragraph g. of this Section 5.

c. Increase in FAR for Consolidation of Lots in the RC or HC Districts

In order to encourage consolidation of lots, the Planning Board may, by special permit, grant an increase in the floor area ratio above 0.32. Such increase shall not exceed 20% of the combined gross floor area of the buildings on the lots to be consolidated, or 12,000 square feet, whichever is lesser, up to a maximum FAR of 0.40.

A FAR increase shall be granted only if the Board determines that the proposed consolidation will achieve, to the maximum extent feasible, the Objectives and Standards set forth in sub-paragraph c. 1) below and makes the Findings required in sub-paragraph g of this Section 5.

1) Objectives and Standards

- a) The coordinated development shall be designed to provide access improvements and reduce the number of curb cuts as well as improve signage, unify landscaping, and achieve a higher standard of site design than would be possible with separate development of the individual lots.
- b) Only lots which were in separate ownership as of January 1, 1992 may be consolidated for purposes of qualifying for a FAR increase in a Highway Overlay District.
- c) The coordinated development need not involve consolidation of ownership. However, the continued use of improvements achieved through consolidation must be guaranteed through appropriate mechanisms (such as easements).

d. Increase in FAR for Projects Involving Minor Alterations in the RC or HC Districts

The Planning Board may, by Special Permit, grant an increase in the existing FAR over 0.32 for minor alteration up to a maximum FAR of 0.40. Such increase shall be granted only if the Board makes Findings required in sub-paragraph g. of this Section 5. A special permit, under this Section, is not required for a minor alteration which does not exceed a FAR of 0.32.

e. Areas Excluded from FAR Computation

The floor area of the following types of facilities shall *not* be included in the gross floor area of a structure or structures for the purposes of computing the floor area ratio on a parcel in the HC or RC district:

- 1) Day care facilities licensed by the State Office for Children
- 2) Off-street parking facilities and associated ramps and aisles;
- 3) Facilities dedicated to public or private transit facilities, or to trip reduction activities such as carpooling and van pooling. Such facilities may include waiting areas, ticket offices or offices for the administration of transportation management and trip reduction activities.
- 4) Cafeterias for the primary use of the employees who work at the site.

f. Density on Parcels Where Portion Dedicated to Town or Commonwealth

Subject to the other provisions of this section, if the owner of a parcel, with the concurrence of the Planning Board, dedicates to the Town or the Commonwealth a portion of the parcel for public ownership of a bonus facility, then the permissible density at which the remainder of the parcel may be developed shall be based on the total parcel area including the area so dedicated.

g. Findings Required for a FAR Increase

In granting a FAR increase the Planning Board shall make a specific Finding, in writing, that the increase shall not be substantially more detrimental to the neighborhood than the existing structure or use, and in the case of new construction, that the increase shall not be substantially more detrimental to the neighborhood than the project at the Base FAR, and that all of the conditions set forth below are met. As the basis for its decision, the Planning Board shall consider factors which shall include, but not be limited to, the impact of the waiver on traffic; municipal services and facilities; the character of the neighborhood including environmental and visual features. It shall be the responsibility of the applicant to demonstrate conformance with the following standards as part of the request for a FAR increase.

- 1) The increase will achieve the goals, objectives and intent of these Highway Overlay District Regulations.
- 2) The increase will achieve compliance with these Highway Overlay District Regulations to a substantially greater degree as compared with the degree of compliance present in the existing development. In the case of new construction, the increase will achieve compliance with these Highway Overlay District Regulations to a substantially greater degree as compared to development at the Base FAR.

- 3) The proposed development complies with all other applicable requirements set forth in the Town of Framingham Zoning Bylaw, including, when required, site plan review (Section VI.F) and/or off-street parking requirements in Section IV., thereof, subject to the following exceptions:
- a) That such requirements are specifically superseded by these Highway Overlay Districts Regulations,
 - b) That the contribution for off-site improvements required by Section VI.F.6.(a) and VI.F.8.(c) shall be not less than three per cent (3%) of total development cost.

6. Open Space Requirements

a. Base Landscape Surface Ratio (LSR)

The base landscape surface ratio (LSR) shall be 0.20 for retail, consumer service and manufacturing uses, and 0.40 for office, research and development and other similar non-retail, nonresidential uses.

b. Increased LSR for Bonus Projects

For bonus projects, the minimum required landscape surface ratio shall be the sum of (1) the base LSR specified above for the applicable use, and (2) one-half of the difference between the proposed FAR and 0.32.

c. Multiple Use Projects

The minimum required LSR for multiple use developments shall be computed as a blended ratio of the LSR requirements applying to the individual components of the development, as follows:

- 1) Non-bonus projects:
 Minimum LSR= (Retail, service or manufacturing floor area percentage x 0.20)
 + (Office, R&D or other similar non-retail, non-residential uses floor area percentage x 0.40)
- 2) Bonus projects:
 Minimum LSR=[(Retail, service or manufacturing floor area percentage x 0.20)
 + (Office, R&D or other similar non-retail, non-residential uses floor area percentage x 0.40)]
 + (one-half of the difference between the proposed FAR and 0.32)

d. Applicability

The requirements of this Section 6 shall apply to any new structure which requires ten or more parking spaces, and to any major alteration, or change of use of an existing structure which requires the addition of ten or more parking spaces.

7. Dimensional Regulations

a. Height:

- 1) Height limitations shall be as specified for the underlying zoning district(s).
- 2) The maximum height of new structures or altered structures where building height is increased, which are located adjacent to residential zoning districts shall be as follows:

DISTANCE FROM RESIDENTIAL DISTRICT	BUILDING HEIGHT
less than 50 feet	30 feet
equal to or greater than 50 but less than 200 feet	40 feet.
equal to or greater than 200 but less than 300 feet	50 feet.
equal to or greater than 300 but less than 400 feet	60 feet.
equal to or greater than 400 feet	80 feet

b. Setbacks:

- 1) Minimum front setbacks shall be as specified for the underlying zoning district(s).
- 2) Structures shall be set back a minimum of fifteen feet from all side and rear property lines, or the setback required by the underlying zoning, whichever is greater, except as modified by subparagraph c., below.

c. Where Abutting Residential Districts

The minimum setbacks for structures located adjacent to residential districts shall be thirty feet.

8. Landscaping Requirements

a. General Purpose and Intent

The requirements and standards set forth in this Section 8 are intended to achieve specific performance objectives, as described below, to enhance the visual quality of the areas within the Highway Overlay Districts, to encourage the creation and protection of open space, to avoid expansive development of impervious surfaces, to protect and preserve the area's ecological balance and to ensure that landscaping is an integral part of development. In the event the applicant desires to deviate from the specific standards set forth below, the Planning Board may approve alternative plans if it finds that such alternative is clearly more feasible and/or preferable and that the proposed arrangement meets the general purpose, intent, and objectives of this Section 8.

b. Objectives

In order to accomplish the General Purpose and Intent of these Highway Overlay Districts Regulations specific objectives shall be accomplished by landscape plans, which shall include the following:

- 1) Buffer strips at the front of lots shall contribute to the creation of tree-lined roadways and shall create a strong impression of separation between the street and the developed area of the site without necessarily eliminating visual contact between them.
- 2) Buffer strips adjoining or facing residential uses or residential zoning districts shall provide the strongest possible visual barrier between uses at pedestrian level and create a strong impression of spatial separation.
- 3) Landscaping within parking areas shall provide visual and climatic relief from broad expanses of pavement and shall be designed to define logical areas for pedestrian and vehicular circulation and to channel such movement on and off the site.
- 4) All required landscaping shall be located entirely within the bounds of the parcel.
- 5) To the greatest feasible extent, existing healthy, mature vegetation shall be retained in place or transplanted and reused on site.

c. Applicability

The requirements of this Section 8 shall apply to any new structure which requires ten or more parking spaces, and to any major alteration, or change of use of an existing structure which requires the addition of ten or more parking spaces.

d. Technical Requirements

All off-street parking site plans and special permits required hereunder shall include a landscape plan and planting schedule prepared by a registered landscape architect unless waived in accordance with Section 10.b.

e. Occupancy Permits

- 1) No occupancy permit, whether temporary or permanent, shall be granted by the Building Commissioner, until the Planning Board has voted its approval that all landscaping and buffer strips conform to the approved landscape plan and planting schedule, or thirty days shall have passed since the request was submitted to the Planning Board.
- 2) In cases where, because of seasonal conditions or other unforeseeable circumstances, it is not possible to install or complete landscaping prior to initial occupancy of the building(s), an occupancy permit may be granted by the Building Commissioner, upon the approval of the Planning Board, under the following conditions:
 - a) the owner shall make a payment to the Town, to be held in escrow by the Planning Board, to ensure that required landscape planting is installed and maintained
 - b) the amount of the escrow payment shall be set by the Planning Board and shall be equal to the remaining estimated cost of materials and installation, with allowance for escalation and contingencies.
- 3) Release of any escrow amounts, or approval of issuance of an occupancy permit, shall be conditioned upon the receipt by the Planning Board of written certification by a registered landscape architect that the specified plant materials to be included in the project landscaping have been installed according to the approved landscape plan.

f. Landscaped Buffer Strips

1) General Standards

In the highway corridor and regional center areas, a landscaped buffer strip shall be provided separating all buildings, parking areas, vehicular circulation facilities, or similar improvements from the right-of-way line of any public street, or any private way which is adjudged by the Planning Board to perform an equivalent function. Plantings in landscaped buffer strips shall be arranged to provide maximum protection to adjacent properties and to avoid damage to existing plant material. The landscaped buffer strip shall include the required planting as set forth herein, and shall be continuous except for required vehicular access points and pedestrian circulation facilities. All required landscaping amenities shall be located within the bounds of the parcel. Signs shall be designed to be integrated into the landscaping.

2) Specific Standards

a) Depth

Unless a greater depth of landscaping is required in the underlying zoning district, landscaped buffer strips shall be one-third of the distance between the street right-of-way and any building line, but shall not be less than fifteen feet in depth, and need not be greater than fifty feet in depth. Sidewalks may be considered in the calculation of the buffer depth. Landscaped buffer strips adjoining or facing residential districts or residential uses shall be a minimum of fifteen feet in depth.

b) Composition

The buffer strip shall include a combination of deciduous and/or evergreen trees and lower-level elements such as shrubs, hedges, grass, ground cover, fences, planted berms, brick or stone walls. When necessary for public safety or to prevent adverse impacts on neighboring properties, the Planning Board may require that the buffer strip contain opaque screening.

c) Arrangement

Arrangements may include planting in linear, parallel, serpentine, or broken rows, as well as the clustering of planting elements. The following provisions set forth the form of arrangement of plantings. The form of plant arrangement is as follows:

- 1) At least one tree shall be provided per twenty-seven linear feet of street frontage or portion thereof. There shall be a minimum of three trees in the entire buffer strip. Trees may be evenly spaced or grouped. Groups of trees shall be spaced no further apart than fifty feet.
- 2) At least four shrubs shall be provided per one hundred square feet of landscaped area in the buffer strip.

d) Opaque Screens

An opaque screen may be comprised of walls, fences, berms, or evergreen plantings, or any combination thereof, providing that the Planning Board may require evergreen trees or shrubs instead of fences when deemed appropriate. Opaque screens shall be opaque in all seasons of the year. For developments adjoining or facing residential districts or residential uses, or when necessary for public safety or to prevent adverse impacts on neighboring properties, a buffer strip shall contain opaque screens as follows:

- 1) The screen shall be opaque from the ground to a height of between two and one-half to six feet when planted or installed as determined by the Planning Board.
- 2) Walls or fences exceeding four and one-half feet in height shall have plantings on the side facing the residential district, and may be required to have plantings on both sides.
- 3) Evergreen trees or shrubs shall be spaced not more than five feet on center.
- 4) The Planning Board may require ornamental or shade trees in addition to an opaque screen, planted in conformity with the standards set forth in Section 8.f.2) c) above, depending upon the type, size and proximity of adjoining residential uses.

e) Berms

When berms are used to meet the requirements for a buffer strip they shall be planted with living vegetation. The minimum top width of a berm shall be three feet, and the maximum side slope shall be 3:1. No more than twenty-five per cent (25%) of the coverage of a planted berm shall be mulch or non-living material.

f) Mulches

When used in required landscaping or buffers, mulches shall be limited to bark mulch or decorative stone. No more than twenty-five per cent (25%) of the coverage of the landscaped area shall be mulch or non-living material.

g. Intersection Sight Distance Restrictions

Landscaped buffers and screening shall not restrict sight distances at intersections or driveway entrances. Site distance requirements, location and specification of site zones shall be determined by reference to the current edition of the Commonwealth of Massachusetts Department of Public Works Highway Design Manual, or any successor publication. As a guide, no fence or other structure may be erected, and no vegetation may be maintained, between a plane two and one-half feet above curb level and a plane seven feet above intersecting roadway levels within the zone required for site distance, subject however to actual roadway profiles of the intersecting streets and/or driveways.

h. Landscaping within Off-Street Parking Areas

1) Standards for Landscaping Within Parking Areas:

- a)** Parking areas shall be broken into sections not to exceed one hundred forty cars per section. Sections shall be separated by landscaped buffers to provide visual relief. At a minimum, the buffers shall consist of islands which shall be a combination of “divider islands” and “terminal islands”.
- b)** Each landscaped island shall have a minimum area of one hundred fifty square feet and shall consist of pervious landscaping. Landscaped islands may be curbed or without curbing as follows: Curbing, at least five inches in height, shall surround each landscaped island as protection from vehicles. No tree shall be planted less than four feet from the curbing. Rain gardens shall be designed to meet LID standards and other applicable stormwater management Best Management Practices (BMP’s) and may be designed without curbing where appropriate.

1) Divider Islands: The following additional design standards shall apply to divider islands:

- (a)** At least one landscaped divider island shall be provided for every four parallel rows of parking.
- (b)** Trees shall be spaced not more than twenty-seven feet on center.
- (c)** At least one shrub shall be provided for every five linear feet, or one shrub per thirty-five square feet of ground area, whichever results in a greater number of shrubs.

2) Terminal Islands: The following additional design standards apply to terminal islands:

- (a)** Terminal islands shall be used either (1) to separate parking spaces from driveways and other vehicular travel lanes, or (2) to break up large numbers of parking spaces in a single row of spaces.
- (b)** Landscaped terminal islands shall be provided at the ends of rows of parking where such rows are adjacent to driveways or vehicular travel lanes. In addition, terminal islands shall separate groups of parking spaces in a row, such that no continuous line of adjoining spaces contains more than twenty-five parking spaces.
- (c)** As an alternative to separating groups of parking spaces with small internal terminal-islands, additional landscaped area may be provided. Such additional landscaped area shall be provided as additional depth in the buffer strip (above the minimum depth otherwise required in Section 8.b. above), terminal and divider islands adjacent to rows exceeding twenty-five spaces, and shall be provided at a ratio of at least 1.2:1.0. However, no more than thirty-five adjoining parking spaces may be provided in a row of spaces, regardless of the size of the landscaped islands at the ends of the row.
- (d)** Terminal islands shall contain at least two trees when abutting a double row of parking spaces.
- (e)** Landscaped terminal islands shall contain evergreen shrubs planted three feet or less on center, in order to prevent damage due to pedestrian traffic.

c) Grass or ground cover may be substituted for shrubs in divider islands and terminal islands with the approval of the Planning Board.

2) Increase of impervious areas: Notwithstanding the limitation on paved areas set forth elsewhere in Section 8.h.1)b), a landscaped island may be up to thirty-three per cent (33%) impervious surface, provided that all such area is used for pedestrian walkways and that such walkways are adequately buffered from the parking areas.

3) Use of porous paving materials: In order to minimize the amount of storm water runoff from paved areas, the use of porous paving materials is encouraged where feasible.

i. Landscaping Adjacent to Buildings

Landscaped areas at least ten feet in depth shall be provided adjacent to buildings on every side of such buildings that has a public access point and shall contain trees and shrubs. This requirement may be waived by the Planning Board in cases where it is impractical to provide the specified depth of landscaped area due to the size, shape or other characteristics of the parcel; however, in no case shall any parking space or vehicular travel lane be located less than five feet from the building.

j. Standards for Plant Materials

- 1) All trees, shrubs and hedges must be species that are hardy in Plant Hardiness Zone 5, as defined by the American Standards for Nursery Stock and shall be resistant to salt spray and urban conditions where appropriate.
- 2) Plantings shall be selected and designed so as not to require high water use for maintenance.
- 3) Deciduous trees must be at least two and one-half to three inches caliper, six inches above the top of the root ball, at the time of planting; and must be expected to reach a height of at least twenty feet within ten years, when considering the expected normal growth patterns of the species.
- 4) Evergreen trees must be at least eight feet in height at the time of planting.
- 5) Ornamental or specimen trees must be at least eight feet in height at the time of planting.
- 6) Shrubs and hedges must be at least three and one-half feet in height or have a spread of at least twenty-four inches at the time of planting.
- 7) Shade or canopy trees shall be provided within parking lots, and within buffer strips.

k. Design for Pedestrian Circulation

- 1) **Pedestrian Access Through Buffers and Screens**
Landscaped buffers should, to the greatest extent possible, serve as usable open space, providing an environment for pedestrian access between uses. Therefore, buffers shall be designed to include appropriate means of pedestrian access and crossing, both along the landscaped area (i.e., in a parallel direction with the property line) and across the buffer (i.e., providing pedestrian access to the site, separate from vehicular access points). Buffers and screens shall provide for appropriate hard-surfaced pedestrian access points and walkways where property lines abut existing or planned public streets, whether or not such streets have been constructed.
- 2) **Pedestrian Circulation in Parking Facilities**
 - a) Parking facilities and appurtenant driveways shall be designed so as to gather pedestrians out of vehicle travel lanes and to maximize the safety and convenience of pedestrians walking between parked cars and business entrances as well as between external points and locations on site.
 - b) Pedestrian walkways shall be (i) integrated, to the extent possible, into the interior and/or perimeter landscaping of parking lots; (ii) constructed with a paved or similarly firm surface, at least six feet in width; and (iii) separated from vehicular and parking areas by grade, curbing and/or vegetation, except for necessary ramps.

l. Maintenance

- 1) The owner(s) and/or developer(s) of any lot shall be responsible for the maintenance of all landscaped open space and buffers. Landscaping shall be maintained in good condition so as to present a healthy, neat and orderly appearance and shall be kept free from refuse and debris.
- 2) A permanent water supply system, sufficient in the Planning Board's determination, shall be provided by the installation of a sprinkler system and/or hose bibs placed at appropriate locations. Whenever possible, "gray" or re-used water, or wells, shall be used as the water source.
- 3) Maintenance bond: The Planning Board may require a bond to ensure that required landscape plantings are maintained and survive for up to one growing season following completion of planting.

m. Pervious Landscaping

Up to five per cent of the area counted as pervious landscaping may include pedestrian circulation components such as walkways. Parking areas surfaced with porous pavement shall not be considered pervious landscaping.

9. Bonus Density Provisions

a. Eligibility for Bonus Floor Area

If a proposed improvement or facility in the Regional Center district complies with the standards set forth in Section 5.b. above, it shall be eligible for bonus floor area in accordance with the requirements set forth in paragraphs b through f of this Section 9.

b. Public Benefit Amenity

To qualify for bonus floor area a public benefit amenity must be specifically listed in the Schedule of Benefits below. A public benefit amenity that is a physical space shall be one to which the public is assured access on a regular basis, or an area that is dedicated to and accepted by the Town for public access purposes. Furthermore, to be considered a public benefit amenity, a specific improvement or facility must be determined to provide a public benefit and to be appropriate to the goals and character of the area. In addition, the following requirements must be met:

1) Parks

To be eligible as a public benefit amenity a park must meet all of the following standards:

- be at least 2,500 square feet in area;
- have a minimum width of 50 feet;
- be buffered and/or screened from nearby roads, parking areas and other vehicular circulation facilities; and
- not be located within the landscape buffer strip required under Section 8.f.

For purposes of computing bonus credits, no more than one-third of the area of the park shall consist of wetlands, water bodies, steep slopes (over 25%), or other areas not usable for public recreation or leisure activities. On-site park area which meets the above standards and which is not wetlands may be used to satisfy the minimum landscape surface ratio (LSR) requirement. On- or off-site park area may be used to qualify the project for bonus floor area.

2) Pedestrian Circulation Improvement

Such improvements shall be directly accessible to the pedestrian circulation system, and shall where possible connect with existing pedestrian circulation improvements on adjacent parcels and/or provide for connection to such improvements which can reasonably be expected to be developed on adjacent parcels. The following standards shall also be applicable:

a) Pathway (Off-Site)

A pathway shall be at least fifty feet from a vehicular circulation improvement for at least ninety per cent of its length.

b) Sidewalk (Off-Site)

A sidewalk shall not be on land owned by the applicant or on public or private right-of-way immediately adjacent to frontage of land owned by the applicant.

c) Pedestrian Bridge/Tunnel

Bridges or tunnels should have clear functional relationships to adjoining commercial properties and/or public open space amenities. To be eligible as a public benefit amenity, a pedestrian bridge or tunnel shall not be located entirely on the applicant's property, nor shall it connect a principal use with an accessory use such as a parking structure.

3) Service Roads

Driveways and other facilities which principally serve the internal circulation needs of a project, and which provide only a marginal public benefit, shall not qualify as service roads under the provisions of this Section 9.

c. Schedule of Bonuses

Bonus floor area shall be available in accordance with the bonus ratios listed in the following "Schedule of Bonuses", up to the maximum FAR permitted in this Section 9 if the Planning Board deems that the amenity offered by the applicant accomplishes the objectives of this Section E. The bonus ratio is the ratio of (1) the unit of public benefit

amenity provided to (2) the floor area permitted for bonus projects in excess of a FAR of 0.32. For example, a bonus ratio of one to three (1:3) and an amenity unit of “Square Foot” means that for each square foot of the amenity the project shall be eligible for three additional square feet of floor area for permitted uses.

SCHEDULE OF BONUSES

PUBLIC BENEFIT AMENITY	AMENITY UNIT	BONUS RATIO*
Open Space Amenities		
Park	Square foot	1:1
Excess Pervious Landscaping	Square foot	1:0.5
Pedestrian Circulation Improvements		
Off-Site Sidewalk	Square foot	1:1
Pathway/Bikeway	Square foot	1:1
Pedestrian Bridge/Tunnel	Square foot	1:1
Public Assembly Space	Square foot	1:5
Traffic Improvements		
Service Road (24-30 foot paved width)	Square foot	1:3
Transit Amenities		
Transit-related Lane Widening	Square foot	1:2
Public Transit Endowment	Dollar (\$)	20:1

*Note: BONUS RATIO= Amenity: Floor Area

d. State-Mandated Amenities

The Planning Board may grant bonus floor area for a public benefit amenity that is not specifically listed in paragraph b above, only when the cost of such amenity exceeds 3% of the total cost of the project and if:

- 1) the provision of such amenity has been mandated as part of a State approval process; and,
- 2) the provision of the alternative improvement furthers the objectives of this Section 9; and,
- 3) the improvement is at least equivalent in value and effect to a listed public benefit amenity which would qualify the development for the proposed amount of bonus floor area.

e. Prospective Bonus Agreements

A project in the RC district, which proposes to provide a public benefit amenity but not to use the full FAR increase which the amenity makes possible, may enter into a prospective bonus agreement (PBA) with the Planning Board as a condition of the Board's granting of a Special Permit and/or Site Plan Approval. The PBA shall define the specific nature of the public benefit amenity and the amount of FAR and additional floor area for which the parcel shall become eligible as a result of provision of the improvement. The maximum term of a PBA shall not exceed five years, following which the rights to any unused FAR increase shall become null and void. If, for any reason, a change of use of a parcel that has been approved for an FAR increase which is in whole or in part unused is proposed within the affective term of a PBA, the owner must obtain the approval of the Planning Board to take advantage of such remaining increase.

The only effect of a PBA shall be to increase the allowable FAR of the development, subject to all other requirements of this Section 9. The approval of a PBA by the Planning Board shall not be deemed to supersede or waive any of the other provisions of this Section, nor shall such approval be considered to represent the granting of site plan approval or special permit approval for any future development.

f. Continuing Obligation for Bonuses

- 1) Where a bonus is granted, the applicant shall covenant to ensure the continued use of the bonus facility or improvement for the purpose for which the bonus was granted. Such covenant shall be recorded as a condition of the special permit and shall run with the land.
- 2) An applicant who constructs a pedestrian circulation improvement shall be responsible for the maintenance, upkeep and provision of insurance for the improvement, unless it has been dedicated to and accepted by the Town. If the improvement is not maintained, the Town may, at its sole option, place a lien on the property, maintain the improvement, and seek reimbursement from the owner.

10. Administration

The review procedures set forth herein are intended to apply to the *RC* and *HC* districts, in addition to the requirements of the underlying zoning district. In administering such procedures and requirements, the Planning Board shall apply the standards of the underlying zoning district if such standards, procedures and requirements are more restrictive than set forth in these Highway Overlay District Regulations.

The Planning Board shall be the SPGA for all special permits granted under these Highway Overlay District Regulations.

a. Thresholds for A Special Permit for Non-Bonus Projects

A development which requires site plan review and a special permit in conformance with the underlying zoning shall be required to conform with the additional requirements of these Highway Overlay Districts Regulations. No additional special permit or site plan review shall be required.

b. Thresholds for A Special Permit for Bonus Projects

- 1) An additional special permit is required for any proposed development which will exceed the base Floor Area Ratio (FAR) of 0.32, as described in Section 5, hereto.
- 2) Procedure:
 - a) When required, the procedures for site plan submission, review and approval shall be as set forth under Section VI.F. of this By-Law, except that the traffic impact standards of Section VI.F.6.(a) and VI.F.8.(c) including the requirements for off-site traffic improvements, are superseded by the provisions of Section 3.d.3) and 5.b. herein. In the event that multiple special permits are required either by these Highway Overlay District Regulations or by these Regulations and the Underlying Regulations, the review process employed shall occur simultaneously, with a separate vote recorded for each, to minimize, to the greatest feasible extent, the decision-making time period.
 - b) The calculation of a major or minor alteration shall be determined by the Building Commissioner.

c. Modifications and Waivers

The Planning Board may modify and/or waive strict compliance with one or more of the standards, regulations and objectives set forth in these Highway Overlay District Regulations in accordance with the following procedures.

- 1) Findings Required for a Waiver: The Planning Board shall make a specific Finding, in writing, that a waiver and/or modification will not create conditions which are substantially more detrimental to the existing site and the neighborhood in which the site is located, than if the waiver and/or modification were not granted. As the basis for its decision, the Planning Board shall consider factors which shall include, but not be limited to, the impact of the waiver on traffic; municipal services and facilities; the character of the neighborhood including environmental and visual features; and whether the objectives of these Highway Overlay Districts Regulations are achieved.
- 2) Performance Standards for Waivers: The applicant will be required to demonstrate that the waiver, if granted, will accomplish the following design and performance objectives, as are applicable:
 - a) Landscaped buffer strips which create a strong impression of separation between developed areas and adjacent streets and/or residential areas.
 - b) Landscaped parking areas and landscaped areas adjacent to buildings to provide shade and visual relief from large expanses of impervious surfaces.
 - c) Improved pedestrian circulation within the subject site and, where possible, create pedestrian access to adjoining sites.
 - d) Maintenance of all landscaped spaces and buffer areas.
 - e) Improved vehicular access, reduced curb cuts for access drives, improved on-site circulation.
 - f) Improved building architecture and facade to achieve compatibility and harmony with the surrounding neighborhood.
 - g) Improved site signage.

d. Mutual Review

It is the intent of this Section to provide an opportunity for regional review of proposed developments in the Regional Center district as described below: Review and comment by the Planning Board of the Town of Natick is specifically

encouraged. In its review of a site plan, the Planning Board shall consider any comments submitted by the Planning Board of the Town of Natick.

- 1) If the size of the proposed structure is equal to or greater than 50,000 square feet, the applicant shall submit one complete set of application documents to the Town of Natick and shall meet with the Planning Board of Natick to describe the project, if requested by the Natick Planning Board.
- 2) If the size of proposed structure is less than 50,000 square feet, the applicant shall submit one complete set of application documents to the Town of Natick. The Planning Board of Natick shall be notified of the dates of all public hearings regarding the project.

F. COMMERCIAL GROUND-MOUNTED SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATIONS

OVERLAY DISTRICT

1. Purpose and Intent

The purpose of this bylaw is to provide a permitting process and standards for the creation of new Commercial Ground-Mounted Solar Photovoltaic Renewable Energy Installations. This By-law provides standards for the placement, design, construction, operation, monitoring, modification and removal of such installations; while protecting public safety, protecting against undesirable impacts on residential property and neighborhoods, protecting scenic, natural and historic resources and protecting and/or providing for wildlife corridors. Commercial Ground-Mounted Solar Photovoltaic Renewable Energy Installation shall not diminish abutting property values and provide adequate financial assurance for the eventual decommissioning of such installations.

The provisions set forth in this section shall apply to the construction, operation and/or repair of Commercial Ground-Mounted Solar Photovoltaic Renewable Energy Installations.

2. Definitions

As-of-Right Siting: As-of-Right Siting shall mean that development may proceed without the need for a special permit, variance, amendment, waiver, or other discretionary approval. As-of-right development may be subject to site plan review to determine conformance with local zoning ordinance or by-laws. Projects cannot be prohibited, but can be reasonably regulated by the inspector of buildings, building commissioner or local inspector.

Building Permit: A construction permit issued by an authorized building inspector; the building permit evidences that the project is consistent with the state and federal building codes as well as local zoning by-laws, including those governing commercial ground-mounted large-scale solar photovoltaic installations.

Commercial Ground-Mounted Solar Photovoltaic Installations: A solar photovoltaic system that is structurally mounted on the ground and is not roof-mounted, and has a minimum nameplate capacity of 250kW DC.

Designated Locations: The locations designated by the Town of Framingham, in accordance with Massachusetts General Laws Chapter 40A, Section 5, where Commercial Ground-Mounted Solar Photovoltaic Installations may be sited as-of-right. Said locations are shown on the Framingham Zoning Map pursuant to Massachusetts General Laws Chapter 40A, Section 4. This map is hereby made a part of this Zoning By-law and is on file in the Office of the Town Clerk.

Rated Nameplate Capacity: The maximum rated output of electric power production of the Photovoltaic system in Direct Current (DC).

3. Applicability

No Commercial Ground-Mounted Solar Photovoltaic Renewable Energy Installations shall be erected or installed except in compliance with the provision of this Section and other applicable Sections of the Zoning By-law, as well as state and federal law. Such use shall not create a nuisance by virtue of noise, vibration, smoke, dust, odors, heat, glare and radiation, unsightliness or other nuisance as determined by the Site Plan Review Approval Granting Authority. The Planning Board will serve as the Site Plan Review Approval Granting Authority herein.

Appendix K

Town of Lexington's Zoning Bylaws

Chapter 135 Zoning, March 20, 2013

Section 135-7.0, Special District Regulations

7.2, Transportation Management Overlay District

7.2.1 Purpose. The Town may create Transportation Management Overlay (TMO) Districts that allow greater opportunity for facilitating effective multi-modal transportation networks that increase the quality of life in Lexington through improved traffic management and mitigation to that outlined in §§ 5.1 and 5.5, consistent with the following principles:

1. Multimodal Consideration. To ensure that the safety and mobility of all users of the circulation and transportation systems, including vehicles, public transit, pedestrians and cyclist, are considered equally;
2. Context Sensitive Design. To incorporate, throughout project planning, design, and construction, the overarching principles of Context Sensitive Design, including attention to scenic, aesthetic, historic, and environmental resources; and
3. Clear Process. To develop and implement plans adopted through a broad-based, clear and transparent process.

7.2.2 Overlay District. A TMO District shall not supersede other zoning districts, but shall be deemed to be superimposed over these other zoning districts, except that if an applicant elects to comply with the requirements in this Section, this Section shall supersede §§ 5.1 and 5.5.

7.2.3 Applicability. The provisions of this Section shall apply to developments located within a TMO District that elect to comply with the requirements of this Section, rather than complying with §§ 5.1 and 5.5. Notwithstanding anything set forth herein to the contrary, an applicant may not make such an election until a plan for the TMO District has been adopted by the Planning Board as described below. A final *certificate of occupancy* shall not be issued unless or until all provisions of this Section have been satisfied, except for those conditions that by their terms are intended to be satisfied after occupancy of the *structures* for which the *certificate of occupancy* is sought.

7.2.4 Transportation Plan Required. The Planning Board, after consultation with the Board of Selectmen and an advertised public meeting, shall adopt a specific plan for each TMO District containing the following elements:

1. Assessment of the impacts of reasonably anticipated future development in the TMO District considering current zoning bylaws and other legal and physical constraints;
2. Analysis of existing capital improvement plans or the facilities element of a plan adopted under *MGL c. 41, s. 81D*;

3. Cost projections for transportation infrastructure improvements required to address the impacts generated by the anticipated development in the TMO District, including the potential impact on nearby residential streets and neighborhoods;
4. Analysis of other reasonably anticipated sources of funding;
5. Required transportation mitigation fees in accordance with a methodology determined pursuant to this study;
6. Off-street parking and loading requirements for the TMO District;
7. Parking and Transportation Demand Management techniques reasonably calculated to reduce the number of vehicle trips generated by developments in the TMO District and to ensure the long term stability of the transportation system;
8. An implementation program that defines and schedules the specific *municipal* actions necessary to achieve the objectives of the plan; and\
9. A plan to encourage voluntary participation in TDM programs by those not required to participate.

The plan shall be updated periodically to reflect actual development activity, actual costs of infrastructure improvements completed or underway, plan changes, or amendments to the zoning bylaws.

7.2.5 Transportation Mitigation Fee. The imposition of a transportation mitigation fee shall not prevent the Town from imposing fees it may otherwise impose under local bylaws.

The payment of a transportation mitigation fee is required when an applicant elects to proceed under this Section, subject to the following:

1. **Timing of Payment.** Payment of the transportation mitigation fee shall be in cash, under terms and conditions specified in the TMO District plan.
2. **Payment Use.** Any transportation mitigation fees paid to the Town are intended to be used to fund transportation infrastructure improvements that are necessitated by the proposed development of the applicant. Examples of appropriate uses include the costs related to the provision of equipment, infrastructure, facilities, services, or studies associated with the following: traffic mitigation; public transportation; bicycle and pedestrian accommodations or other transportation-related improvements. Except where deficiencies are exacerbated by the new development, in which case the fee may be assessed only in proportion to the deficiency so exacerbated, the fee shall not be expended for personnel costs, normal operation and maintenance costs, or to remedy deficiencies in existing facilities. The expenditure of the fees without Town Meeting appropriation is prohibited.

3. Rough Proportionality and Reasonable Benefit to Fee Payer. The transportation mitigation fee shall be determined by the TMO District plan described in § 7.2.4. The fee shall be roughly proportionate to the impacts created by the development. The purposes for which the fee is expended shall reasonably benefit the proposed development.

7.2.6 Parking and Transportation Demand Management. Submission of a Parking and Transportation Demand Management (PTDM) plan, which is consistent with the TMO District plan described above, is required when an applicant elects to proceed under this Section. Compliance with the submitted PTDM plan shall be a condition of any permit approvals.

7.2.7 Enforcement. Compliance with the PTDM plan submitted with an approved permit application may be enforced through § 9.1.

7.2.8 Special Permit. Where a development electing to proceed under this section also requires a special permit, the *SPGA* shall not grant the special permit unless it imposes conditions, including transportation mitigation fees and parking and transportation demand management requirements, to meet the goals of the TMO District plan.



Town of Lexington Planning Board

TRANSPORTATION DEMAND MANAGEMENT POLICY

Adopted by Vote of the Board, September 16, 1998
Originally Adopted March 10, 1997

OBJECTIVES:

This Policy focuses on meeting the transportation needs of Lexington by a variety of measures that affect the **demand** for, and use of, various modes of travel rather than changes in the **supply** of transportation facilities, such as the construction of roadways and multi-level off-street parking facilities.

The Policy seeks to reduce the use of automobiles, particularly single occupant vehicles (SOV), in order to:

1. permit vehicular traffic on Lexington streets to move in an efficient manner without excessive delay or congestion,
2. reduce motor vehicle and pedestrian accidents on the town's streets,
3. permit emergency vehicles to reach homes and businesses with a minimum of delay,
4. reduce the awareness of and impact from vehicular traffic on a predominantly residential town,
5. promote safe and convenient routes for pedestrians and bicyclists,
6. promote cleaner air and reduce automotive exhaust emissions caused by vehicles standing and idling for an excessive time,
7. maintain a balance between the traffic generating capacity of businesses and residential development in the town and the traffic carrying capacity of streets and intersections.

The Policy also seeks to:

1. assure adequate opportunities for mobility for all Lexington residents, workers and visitors, and
2. expand the Town's inventory of data about transportation needs and transportation utilization.

The Policy seeks to aid Lexington businesses and other establishments to:

1. reduce the cost of operations for Lexington companies and establishments caused by delays in vehicular traffic,
2. expand the pool of potential employees who can reach places of work in Lexington more easily and economically,
3. employ a more efficient and satisfied work force less concerned at the work place by the frustrations of transportation, particularly commuting,
4. permit potential customers and clients to reach places of business in Lexington more easily and economically,
5. provide transportation services more effectively in collaboration with other businesses and with the Town.

TERMINOLOGY: DEFINITIONS OF TRANSPORTATION TERMS AND CONCEPTS

ALTERNATIVE TRANSPORTATION SERVICES: Alternatives to the use of the single occupant automobile including but not necessarily limited to public transit, ride-sharing, van pooling, and use of pedestrian or bike ways.

CONGESTED INTERSECTION: an intersection of two or more streets that meets the test set forth in paragraph 12.2.3. of the Zoning Bylaw for an intersection "likely to be affected by the proposed development" that now has, or is projected to have, a traffic level of service of "C" or below or has experienced that level in the past.

FIXED ROUTE TRANSPORTATION SYSTEMS: a transportation service that operates on a specific route according to a pre-determined schedule. (See subsection 3 on page 5 for a description of these services.) Other "demand responsive" services are flexible, respond to calls for service from customers and do not have a specific schedule.

TRAFFIC LEVEL OF SERVICE (LOS): a method of evaluating the degree of congestion of intersections as described in the "Highway Capacity Manual, 1985 Edition" published by the Transportation Research Board. The system has six levels from "A" to "F" with "A" being the least congested and "F" being near failure.

TRANSPORTATION HANDICAPPED: any of several classes of people who are not able to use private automobiles, or in some cases regular public transportation, due to age, economic condition or physical disability. The term typically applies to children who do not have a driver's license, older people no longer able to drive, those unable to afford a private automobile and those with various physical disabilities.

TRANSPORTATION MANAGEMENT ASSOCIATION: a non-profit group formed by local businesses, corporate employers, owners/developers of properties, and civic leaders to address community transportation problems that can be dealt with more efficiently on a collective basis. Some are single purpose organizations formed specifically to address transportation concerns to facilitate private sector involvement in addressing transportation issues. Others are elements of broader multi-purpose civic organizations.

TRANSPORTATION DEMAND MANAGEMENT (TDM): various services and programs to affect the behavior of motorists and encourage them to use alternatives to driving alone. Transportation Demand Management strategies focus on reduction of vehicle trips, especially commuter trips during peak travel periods.

TRANSPORTATION SYSTEMS MANAGEMENT (TSM): a program to improve the efficiency of the existing transportation system by more effective use of facilities or resources.

TOWN TRANSPORTATION COORDINATOR: The person appointed under the Lexington Selectmen/Town Manager Act to be the Transportation Coordinator.

APPLICABILITY

Inclusionary Transportation Services

In order to obtain a favorable recommendation, or where applicable, a favorable action, by the Planning Board on construction or other activity that will increase transportation demand, each:

- a. commercial establishment with 10,000 square feet or more of gross floor area on the lot, (including any existing floor area, but not including any floor area devoted to residential use or to off-street parking), or
- b. new housing development, with 25 or more dwelling units, which gains an increase in density greater than that previously allowed by right¹ in the zoning district in which it is located, or
- c. other activity that might not include new construction, such as a change of use, that increases the number of vehicular trips by 50 or more trips per day,

shall provide transportation services as described in this Policy.

COMPENSATORY BENEFIT: Where an action of the Town increases the value of a property, by permitting more intensive commercial development or a higher density of residential development, or reduces an owner's or developer's expense, by granting a waiver or variance from normal standards, the Town should receive a benefit, such as some type of transportation demand management program in return. Further, the Town should refrain from actions which increase value, or reduce expenses, unless it does receive such a benefit.

Written Transportation Demand Management Plan Required

A developer or property owner:

- a. constructing a more intensive commercial development or
- b. constructing a higher density of residential development or
- c. that proposes another activity that increases the number of vehicular trips by 50 or more trips per day,

shall be responsible for preparing and administering a written Transportation Demand Management Plan. [This responsibility may be delegated to a company or other tenant of a building.]

The developer may also propose alternative transportation infrastructure improvements and alternative transportation services in the event that the principal proposed facilities and services cannot be successfully achieved.

It will usually be necessary to enter into a written agreement with the Town to insure that the provisions of the Transportation Demand Management Plan are carried out by the developer and subsequent occupants or owners.

NOTE: Later sections of this Policy contain additional provisions for annual reporting and monitoring of compliance with the written Transportation Demand Management Plan.

¹ This does not apply to residential developments in cluster subdivisions with fewer than 25 dwelling units that are permitted under Section 9 of the Zoning Bylaw. Another consideration is that some cluster subdivisions may have a higher density, as measured by the number of dwelling units, but not have a greater impact in vehicular trips than a conventional subdivision otherwise permitted by right.

Once approved, the Transportation Demand Management Plan, shall apply to any successors or assigns, to any subsequent developer, property owner or business. The provisions of the Plan shall run with the property.

PROGRAM REQUIRED

The Transportation Demand Management Plan shall provide a program of transportation services, drawn from **each** of the nine categories below. The Plan shall generally include each of the numbered services in each of the nine categories except that the Planning Board may permit exceptions on a case by case basis. These new transportation services shall be a parallel program to any proposed intersection improvements to mitigate traffic congestion as required by subsection 12.3 of the Zoning Bylaw.

If a proposed development is near an intersection "likely to be affected by the proposed development" (as defined in ZBL 12.2.3.) that is a "congested" intersection, the Planning Board may require additional efforts in some of the nine categories - as listed below under "congested intersections". A "congested" intersection is one that now has, or is projected to have, a traffic level of service of "C" or below, or has experienced that level in the past.

1. Site Design

- 1.1 Include transportation infrastructure elements in the site design, such as:
 - a. Adequate street and driveway widths, turning radii, and vertical clearance (if applicable) to accommodate alternative transportation services vehicles.
 - b. Bus stops, turnarounds and/or pull-offs.
 - c. Bus stop shelters and benches. These may be provided in a building, such as part of a lobby area adjacent to a bus route/stop. Or they may be provided adjacent to the street in a comfortable, all weather passenger shelter. When not included in a building, a passenger shelter shall have lighting, landscaping, seating or other amenities for riders.
 - d. Drop-off and pick-up for alternative transportation services other than buses.
 - e. A number of off-street parking spaces that shall not exceed the minimum number of parking spaces required by Section 11.3 of the Zoning Bylaw unless the applicant can demonstrate that a greater number of parking spaces is required to serve the public interest.
 - f. Suitable signage.
 - g. Pedestrian routes that deal adequately with potential points of conflict with vehicular traffic.
 - h. Taxi stands (if applicable).
- 1.2 Provide preferential parking locations and arrangements closest to a building for vehicles other than single occupant automobiles. See ZBL 12.3.4 4)

In the case of a "congested intersection" (see Terminology), the Planning Board may also require the developer or applicant to:

- 1.3 Participate in a site development that provides more concentrated development that is served more easily by alternate transportation services. *[In some cases, this is likely to transcend property lines and require modification of traditional zoning and site development requirements.]*

2. Transportation Information

- 2.1 Designate a transportation coordinator for each property. The transportation coordinator for the property shall coordinate the provision of transportation services with each business with five or more employees on the property.
- 2.2 The transportation coordinator for the property shall:
 - a. Provide a data center where prospective users of alternative transportation services can locate others with whom they can ride.
 - b. Maintain and promote information about alternative transportation services. This includes both an office and informational bulletin boards or a kiosk. It includes assisting the promotional activities of others, such as LEXPRESS, MBTA or transportation management associations that serve the site.

3. Connection to Existing Public Fixed Route Transportation Systems

In the context of this Policy, *Public Fixed Route Transportation Systems* includes:

- the MBTA Red Line rail rapid transit service with a terminal at the Alewife station and all other parts of the MBTA rail rapid transit service that connect to it;
- the MBTA Green Line light rail transit service with a terminal at the Riverside station and all other parts of the MBTA rail rapid transit service that connect to it;
- the MBTA Commuter Rail service with nearby stations in Belmont, Waltham, Lincoln, Concord, Woburn and Winchester;
- MBTA buses that have part of their route in Lexington, or at the Alewife Red Line terminal or the Riverside Green Line terminal, or
- the Lexington LEXPRESS service.

Elsewhere in the Policy there are references to cities and towns served by *Existing Public Fixed Route Transportation Systems*. That includes:

- the metropolitan core, i.e., cities and towns with:
 - MBTA rail rapid transit service that have access to the Alewife Red Line terminal,
 - MBTA light rail transit service that have access to the Riverside terminal, and
 - any other parts of the MBTA rail rapid or light rail services that connect to the Alewife or Riverside terminals.
 - communities, such as Arlington, Belmont, Concord, Lincoln, Waltham, Woburn or Winchester through which MBTA bus routes or commuter rail routes pass, and
 - Lexington.
- 3.1 The transportation coordinator for the property shall maintain and promote information about public fixed route transportation services. Route and schedule information for all public fixed route transportation systems and any transit service, such as the Alewife Shuttle, (operated by the 128 Business Council) that connects to an MBTA or LEXPRESS service, shall be displayed.
 - 3.2 The property owner or tenant shall financially assist (paying at least half the cost of a pass) for any employee requesting a pass for use on:
 - a. a fixed route public transportation system, as described above, or
 - b. any transit service, such as the Alewife Shuttle, (operated by the 128 Business Council) that connects to an MBTA or LEXPRESS service. See ZBL 12.3.4 1).

In the case of a "congested intersection" (see Terminology), the Planning Board may also require the developer or applicant to:

- 3.3 Pay the full cost of a pass for any employee requesting one for use on:
 - a. a fixed route public transportation system, as described above, or
 - b. any transit service, such as the Alewife Shuttle, (operated by the 128 Business Council) that connects to an MBTA or LEXPRESS service. See ZBL 12.3.4. 1).
- 3.4 Contribute financially annually and for an extended period to a transportation fund devoted to assuring the continued provision of transportation services by the Town. This includes both transportation coordination services and LEXPRESS.
- 3.5 Contribute financially annually and for an extended period to allow LEXPRESS service to serve the site or for the frequency of LEXPRESS service to be increased.
- 3.6 Make a capital investment in a public transportation service such as purchase of a LEXPRESS bus.

4. Outreach to Areas Not Serviced Well by Existing Public Transportation Systems

In the context of this Policy, *Areas Not Serviced Well by Existing Public Transportation Systems* means suburban towns and cities that are **not** serviced by *Existing Public Fixed Route Transportation Systems*, as described above. They are typically west, north and south of Lexington.

- 4.1 Encourage use of carpools, ridesharing and vanpools by a continuous program of education of employees, and visitors on the need for, and existence of, alternative transportation services and by marketing these transportation services to encourage greater use by them. The transportation services may be operated by others. See ZBL 12.3.4 1)
- 4.2 Provide preferential parking locations and arrangements closest to a building for vehicles other than single occupant automobiles See ZBL 12.3.4 4)

In the case of a "congested intersection" (see Terminology), the Planning Board may also require the developer or applicant to:

- 4.3 Actively participate in, including financial support of, an organization that operates car pools and vanpools.
- 4.4 Actively participate in promotional activities for alternative transportation services whether provided by transportation management associations or by the Town.
- 4.5 Provide, or contribute to the provision of, day care services on or near the site and encourage greater use of car pools, ride sharing and vanpools for those with child care or elder care responsibilities.
- 4.6 Provide, at the developer's or business' expense, vans or automobiles for use by own employees in vanpools or car pools.
- 4.7 Reduce the number of parking spaces to the minimum number required by the Zoning Bylaw or to fewer than those required by using the special permit provision for a reserved parking area.

5. Other Trip Reduction Techniques

- 5.1 Provide only a minimum number of parking spaces that meet minimum Town requirements rather than more spaces than are required.

Comment: The Planning Board needs to review the parking standards in the Zoning Bylaw to be sure that they are the minimum.

- 5.2 Utilize the special permit provision in the Zoning Bylaw (paragraph 11.8.a.) to construct fewer parking spaces than the minimum number otherwise required if a plan shows there is a "reserve area" where parking spaces could be built if needed.
- 5.3 Encourage employees to work at home and "telecommute" to the company by electronic means for some parts of the day, particularly during peak travel hours, or parts of the week.
- 5.4 Schedule hours of operation, such as flex-time, staggered work hours, and spread scheduling that reduces trips during peak traffic hours See ZBL 12.3.4 3) while still reducing the total number of single occupant vehicles (SOV).

*Comment: Flex-time is an effective technique for reducing trips **during peak hours**. It may not result in an absolute reduction of, but a shift in, SOV trips to another time period. The applicant shall consider, and address in the Transportation Demand Management Plan, the possibility that flex-time can be competitive to, and reduce utilization, of other alternative transportation services that depend on a group of riders necessary to make alternative transportation services feasible. A developer or property owner preparing a transportation demand management plan needs to address the potential conflict between*

flex-time and alternative transportation services in the Plan so that flex time still permits a reduction in the total number of single occupant vehicles (SOV).

In the case of a "congested intersection" (see Terminology), the Planning Board may also require the developer or applicant to:

- 5.5 Provide, or contribute financially to an organization that provides, vans or a shuttle bus service to restaurants, banks or other mid-day employee needs that are not available within walking distance of the work site.
- 5.6 Adopt a formal Trip Reduction Plan with a specific target percentage of single occupant vehicles (SOV) accessing the site. The penalty could be a financial charge to the company - deposited into a fund for alternative services transportation operated by the Town or by a non-profit association.
- 5.7 Arrange for car rentals, operate delivery and passenger shuttles, consolidate courier or mail pick-up services to reduce the number of vehicle trips to and from the property.
- 5.8 Provide employee incentives, such as prizes, trips, time off etc., for using alternative transportation services.
- 5.9 Place restrictions on access to, or egress from, off-street parking areas during peak traffic hours. See ZBL 12.3.4 5)

6. Other Travel Modes

- 6.1 Provide bicycle parking facilities that are secure and protected from the weather, and other measures such as locker and shower facilities to encourage bicycle commuting. See ZBL 12.3.4 6)
- 6.2 Construct a sidewalk or a bicycle/pedestrian path on own property that connects to a larger network of sidewalks, or bicycle/pedestrian paths in the area. (Connections to a larger network that is planned but is not yet constructed in its entirety are included.)
- 6.3 Provide for the issuance of taxi vouchers, or other means to aid the mobility of "transportation handicapped" (see Terminology) site occupants or visitors who do not use private automobiles.

In the case of a "congested intersection" (see Terminology), the Planning Board may also require the developer or applicant to:

- 6.4 Construct, or make a financial contribution to, a sidewalk or a bicycle/pedestrian path **off their own site** that is part of a larger network of sidewalks, or bicycle/pedestrian paths in the area. (Contribution to a fund for maintenance or security in that network is included.)

7. Coordination With Other Transportation Demand Management Activities

- 7.1 Be a contributing, dues paying member of a Transportation Management Association or of a transit service, such as the Alewife Shuttle, (operated by the 128 Business Council) that connects to an MBTA or LEXPRESS service. See ZBL 12.3.4 1)

In the case of a "congested intersection" (see Terminology), the Planning Board may also require the developer or applicant to:

- 7.2 Take a leadership role in organizing a Transportation Management Association, or a transit service, such as the Alewife Shuttle, (operated by the 128 Business Council) that connects to an MBTA or LEXPRESS service. See ZBL 12.3.4 1)

- 7.3 Make a financial contribution to a private association or to the Town for establishing or maintaining activities that promote one or more transportation management association(s) in Lexington.

8. Related Development Actions

- 8.1 Include basic support services for employees and business operations on site so they do not have to drive elsewhere to obtain those services. These include food service establishments, automatic teller machines and other convenience goods and day care.

In the case of a "congested intersection" (see Terminology), the Planning Board may also require the developer or applicant to:

- 8.2 Include additional support services for employees and business operations on site so they or the employees of other nearby establishments do not have to drive elsewhere to obtain those services. These include restaurants and other food service establishments, banks, dry cleaners, convenience goods, day care, elder care and auto repair.

9. Transportation Reporting

The transportation coordinator for the property shall:

- 9.1 Prepare an Annual Transportation Report that shall be submitted to the Town's Transportation Coordinator with information on:
- a. compliance with the Transportation Demand Management Plan,
 - b. the number of persons regularly employed on the site and the zip code of the home of each such employee on the site. [Name and home address of employee not included.]
- 9.2 If the property owner or business files a Rideshare report to the Department of Environmental Protection, provide a copy of that report with the material submitted to the Town's Transportation Coordinator.

In the case of a "congested intersection" (see Terminology), the Planning Board may also require the developer or applicant to:

- 9.3 The transportation coordinator for the property shall include in the Annual Transportation Report:
- a. A survey of the mode of travel of each person regularly employed on the site showing those arriving at the site by:
 - single occupant automobile
 - carpool
 - vanpool
 - public transportation - MBTA or LEXPRESS
 - private transit service, such as the Alewife shuttle
 - bicycle
 - walking

In the case of employees who work at home and/or "telecommute" to the property, the Report may include a tabulation of the time that those employees are off the property.

- b. A survey of the time of arrival and departure of persons regularly employed on the site.
- 9.4 As needed, the property owner shall provide funds necessary for independent monitoring of compliance with any special features of the Transportation Demand Management Plan for the development.

OTHER POLICIES

The transportation management services and programs shall not be discriminatory. They shall be designed and operated to maximize convenience of use for the primary on-site users but the services and programs shall be available for use by all.

The transportation management services and programs shall be consistent with, and mutually supportive of, other transportation management services and programs in the Town. Any questions on inconsistency shall be resolved in consultation with the Town Transportation Coordinator.

Through the execution of appropriate written agreements, the transportation management services provided by the developer shall remain operational and in use for an indefinite period, and be subject to the annual review and approval of the Transportation Coordinator. The written agreements shall provide penalties, which may be financial, for failure to provide the transportation management services included in the Transportation Demand Management Plan.

The developer shall be responsible for the construction and maintenance of the on site and off site transportation infrastructure elements included in the Transportation Demand Management Plan. Off site facilities may be constructed and maintained by the Town or by others, with the costs thereof borne by the developer or its successor.

The Planning Board will not make a recommendation on a proposed development subject to the requirements for Inclusionary Transportation Services until it has provided an opportunity for the Town's Transportation Coordinator to make a recommendation to the Board. If either the Board or the Transportation Coordinator requests, the Transportation Advisory Committee or designated representative(s) shall be provided an opportunity for the Town's Transportation Coordinator to make a recommendation to the Board as well.

Appendix M

Town of Hadley's Zoning Bylaw

Chapter ZB. ZONING BYLAW

SECTION VIII. Commercial Site Plan Approval

§ 8.8. Commercial development and performance standards.

[Amended 10-22-1991]

In order to receive site plan approval, all projects or uses must demonstrate compliance with the commercial development standards herein. Strict compliance with the requirements of these rules and regulations may be waived when, in the judgment of the Board, such action is in the public interest and not inconsistent with the Site Plan Approval Bylaw.

8.8.1.7.

In each case where a new building(s) or new use of more than 10,000 square feet is proposed, the applicant shall prepare and submit a trip reduction plan which clearly identifies a combination of transportation systems management strategies which are designed to reduce anticipated vehicle trips by 35%. These strategies should include, but are not limited to:

[Amended 5-5-2011 ATM by Art. 18]

- (1) Vanpool/carpool incentive programs, such as employer subsidies for vanpools/carpools, preferred vanpool/carpool parking, ride matching services, and providing parking at the vanpool/carpool pickup site.
- (2) Allowing and encouraging flexible work hours and flexible workweeks.
- (3) Encouraging nonvehicle commute modes by providing on-site bicycle storage, locker room facilities, etc.
- (4) Site designs which are conducive to transit or vanpool use, such as convenient, weather-protected dropoff and pickup areas.
- (5) Encouraging employee and customer use of transit services.
- (6) Provisions of on-site services, retail opportunities, and housing if allowed in the zone.
- (7) Naming a full-time or part-time transportation systems management coordinator to oversee implementing all strategies identified in the trip reduction plan.

110 parking spaces may be outdoor spaces and outside of the footprint of the garage; the remainder must be located on, within or below a parking garage or other building.

6B.4 Signs

In the Belmont Uplands District, signs are permitted in accordance with the requirements set forth in Section 5.2.4 a) and b).

6B.5 Lighting

In the Belmont Uplands District, the lighting limitation provisions of Section 5.4.3 b) applicable in a General Business District shall apply provided, however, that primary exterior roadway and parking fixtures shall be full cut off (current IESNA definition), not exceeding 175 watts. Secondary exterior fixtures shall be selected by the developer, and approved by the Planning Board, in a manner that mitigates glare above the horizontal and off site. Garage rooftop and interior garage fixtures shall be located and shielded to eliminate direct glare onto the surrounding terrain beyond 100 feet from the garage structure or the property line, whichever is closer.

6B.6 Design and Site Plan Review

Any activity requiring a Building Permit in the Belmont Uplands District shall require Design and Site Plan Approval by the Planning Board pursuant to this Section 6B.6 and Section 6B.8 (the provisions of Section 3.5 and 7.3 of this By-Law shall not apply except as provided below).

The Planning Board shall promulgate rules requiring any applicant for Design and Site Plan Review under this Section 6B.6 to pay a review fee, in an amount to be determined by the Planning Board to cover the reasonable costs of the Planning Board for the employment of any independent consultants (including but not limited to attorneys) determined to be needed to assist in the review of the application for Design and Site Plan Approval. Such consultants shall be qualified professionals in the relevant fields of expertise determined by the Planning Board.

The objectives of Design and Site Plan Review under this Section 6B.6 are:

- a) to obtain appropriate evidence that traffic impacts of a project will be identified through a traffic study and then appropriately mitigated through mitigation plans funded and constructed by a project proponent, including but not limited to programs to limit vehicle trips to the project site, such as a required Transportation Demand Management (TDM) plan, and/or physical improvements to the impacted on-site and off-site roadways and intersections that are identified in the traffic studies prepared regarding the proposed project. A TDM shall consider, at a minimum:
 - 1) Ridesharing Programs, including but not limited to, carpool/vanpool matching programs through the local Transportation Management Association (TMA); joint programs with area commercial tenants; dissemination of promotional materials to employees' newsletters about the program; coordination with CARAVAN which leases commuter vans and provides administrative and organizational assistance; preferential parking for carpoolers; and guaranteed ride home program;
 - 2) Alternative Work Schedules;

- 3) Public Transportation including, but not limited to, subsidized passes for public transportation and consultation with public transit authorities to establish bus service to project site; and
 - 4) Bicycle Facilities including, but not limited to, inclusion of bicycle racks and/or bicycle storage lockers and showering facilities as part of a project.
- b) to determine that the architecture of the building(s) and any parking garages reflect the prominence of the buildings on the site and in the neighborhood, including, but not limited to determination on the appropriateness of the building materials proposed for the facades of all buildings and parking structures;
 - c) to determine that measures proposed to mitigate construction period impacts on the wetlands and floodplain areas on the site, on adjoining premises and on the Town roadway system are adequate;
 - d) to determine the adequacy of measures proposed to mitigate the effects of the development on wetlands and floodplain areas on the site and on adjoining properties;
 - e) to determine the adequacy of measures proposed to limit peak off-site stormwater runoff to predevelopment levels and to protect water quality in accordance with the Massachusetts Department of Environmental Protection (“MADEP”) stormwater management standards, including adherence to the criteria set forth in Section 6B.7;
 - f) where applicable, to obtain appropriate evidence of compliance with all applicable federal, state and local regulatory and licensing requirements with respect to the handling of potentially hazardous materials, including biologic or radioactive materials;
 - g) to determine that adequate measures have been taken for the private construction, maintenance and management of the natural open space on the site, including the creation of an acceptable Open Space Maintenance Plan and Agreement by which the applicant (including future successors and assigns) agrees to undertake the proper construction, maintenance and management of the natural open space on the site;
 - h) to determine that the adjoining premises within and outside of the Belmont Uplands District will be protected against seriously detrimental uses by provision for stormwater drainage, sound and light buffers, prevention of undue solar reflection and glare and preservation of views, light and air;
 - i) to determine that there will be no serious hazard to vehicles or pedestrians within the site or on adjacent streets or sidewalks and to determine that the development shall promote the use of public transportation;
 - j) to determine the adequacy of the proposed methods of commercial removal of refuse and other wastes resulting from the uses permitted on the site, including size, location and landscape screening of dumpsters or other trash receptacles;
 - k) to determine the adequacy of lighting, landscape planting, preservation of specimen trees (where reasonable), location and screening and/or camouflaging of non-habitable roof elements and other exterior construction features in relation to the

proposed use of the site and the interests of the safety, convenience and welfare of the public;

- l) to determine there is adequate provision for municipal water and sewer to service the site;
- m) to determine that the height and bulk of the proposed buildings on a project site comply with the dimensional requirements of Section 6B.2 and to obtain appropriate evidence of compliance of the proposal with the applicable requirements of this By-Law other than this Section 6B.6;
- n) to obtain appropriate evidence of compliance of the proposal, or satisfactory assurances of compliance, with any non-zoning agreements entered into with the Town of Belmont regarding land in the Belmont Uplands District; and
- o) to obtain appropriate evidence that any proposed Conservation Restriction or wetland restoration programs will adequately protect and/or restore the resources intended.

6B.7 Stormwater Management Facilities

Stormwater Management Facilities shall comply with the following requirements:

- a) Pre- and post-development runoff rates from the site during the 2-, 10-, 25- and 100-year storm events shall be calculated and compared in order to demonstrate post-development discharge rates do not exceed the pre-development discharge rates. These calculations shall be submitted with the application for Design and Site Plan Review under Section 6B.6.
- b) Where possible, a portion of building roof drainage shall be piped directly to an underground infiltration system to be sized to meet MADEP groundwater recharge requirements for the site. Once the required MADEP groundwater recharge volumes are met, an overflow pipe from the infiltration system to the adjacent stormwater management systems may convey excess stormwater flows. Underground infiltration systems shall be constructed under proposed parking areas or building foundations so as to limit the disturbance of existing natural open space.
- c) Stormwater runoff from the on-site paved areas will be collected and conveyed through deep sump catch basins and storm drain pipes to adjacent stormwater management systems. The pipe capacity of the storm drain system shall be designed to convey the 10-year storm frequency.
- d) Open detention basins and other Best Management Practices (BMPs) shall detain at a minimum the difference in pre- versus post-development stormwater discharge rates from the site.
- e) Open detention basins shall have adequate storage volume to contain the peak elevation during the 100-year storm event within its top of bank.
- f) Compensatory storage volumes provided due to loss in floodplain storage of Little River shall result in a minimum net increase of 1.5 times the existing volume impacted.
- g) Disruption to existing tree cover and vegetation shall be minimized.

§ 135-1402

BRAINTREE CODE

§ 135-1404

STUDY AREA — An area which encompasses all impacted streets.

TRIP — A single or one-directional vehicle movement.

TRIP ASSIGNMENT — Assignment of development generated and through trips to municipal streets and a development's driveways.

TRIP RATE — The number of trips per unit of independent variable (e.g., trips per dwelling unit, employee or square footage).

§ 135-1403. Applicability.

Article XIV shall apply to every application for a special permit (SP) or site plan review (SPR).

§ 135-1404. Traffic study.

- A. A traffic study, prepared by a professional engineer registered in Massachusetts or other appropriate professional specializing in traffic planning, shall be submitted with each application for a SP or SPR in which the proposed activity will generate 50 or more new trips during the peak hour of the development. If no streets are impacted by a development, the SPGA may determine that a traffic study is not required. The applicant, at his discretion, may consult with the SPGA or its designees prior to the submission of a SP or SPR in order to identify the intersections to be studied and the appropriate elements to include in the study.
- B. Trip rates may be based on Institute of Transportation Engineers Trip Generation, latest edition (ITE), or data from similar developments in similar settings in Massachusetts.
 - (1) If ITE is used, the land use code, number of studies, weighted average trip rate, trip generation equation standard deviation and coefficient for each land use used shall be provided. Use of the weighted average trip rate or trip generation equation to predict trips for each land use shall be based on the procedures set forth in ITE.
 - (2) If local trip rates are used, the methodology used and the applicability of the data shall be provided.
 - (3) If data is available from ITE and local sources, the applicant may demonstrate why the ITE data is not accurate and should not be used. The SPGA shall determine which data source will be used.
- C. All traffic counts including turning movements shall have been taken within 12 months of the date of submission and shall be adjusted for seasonal variation with an explanation as to how the adjustment was made.
- D. Projections of ADT's, turning movements and capacity analyses shall be adjusted for (where appropriate):
 - (1) Background traffic with an explanation as to how said adjustment was made;
 - (2) Truck traffic and buses;
 - (3) Vacant space in existing buildings in the study area;

- (4) Trips generated by the proposed development on full occupancy; and
 - (5) Trips generated by developments in the study area that are under review or approved by a municipal agency or in the MEPA process.
- E. If an exceptional peak period is likely to occur, the SPGA may require analysis of traffic for said period.
- F. Trips from an existing land use that are being replaced by a new land use may be subtracted as follows:
- (1) If trip generation and distribution for the new land use have the same characteristics as the land use being replaced, trips generated by the new land use may be reduced by an amount to exceed the trips generated by the land use being replaced.
 - (2) If trip generation and distribution for the new land use do not have the same characteristics as the land use being replaced, trips generated by the existing land use may be subtracted from the street system.
- G. Where a project accesses or impacts a state highway, evidence of consultation with MHD shall be provided.
- H. The traffic study shall have the following elements (when applicable):
- (1) Executive summary with:
 - (a) Scope of work to include location of the project locus map and site plan, description of type and intensity of existing and proposed development and description of study area;
 - (b) Schedule for project development;
 - (c) Summary of existing and future traffic conditions including deficiencies in the street system;
 - (d) Summary of traffic impacts and proposed mitigation;
 - (e) Listing of all permits required by the project and a summary of the status of permitting process for each required permit.
 - (2) Review of traffic studies undertaken within the study area in the prior five years on file in the municipalities within the study area.
 - (3) Description of roadway characteristics for all impacted streets to include:
 - (a) Inventory of land uses within 500 feet of the development and on each impacted street;
 - (b) Identification of all curb cuts and driveways within 500 feet of the development;
 - (c) Physical characteristics including number of travel lanes; widths of right-of-way, travel lanes, sidewalks and shoulders; conditions of pavement, sidewalk and curbing; and roadway geometry and grades;
 - (d) Inventory of traffic control devices including regulatory parking and warning signs, traffic signal permits, control units and description of signal phasing;

- (e) Sight distances and obstructions to sight lines;
 - (f) Location and type of streetlighting;
 - (g) Actual and posted traffic speeds;
 - (h) Number, type and location of accidents by year for the most recent three years;
 - (i) Description of transit system serving the study area including mode, frequency, schedule, routes, stop location and patronage;
 - (j) Time and peak volume of parking for the development;
 - (k) Location of pedestrian and bicycle routes;
 - (l) Location of churches, schools, parks and similar public or civic uses within the study area.
- (4) Description of traffic improvements to be completed in the study area prior to the design year with a schedule of implementation and identification of the parties responsible for implementing the improvements.
 - (5) ADT's on all impacted streets for the current year and the no-build and build conditions of the design year (no-build and build conditions). Current ADT's shall be counted for a forty-eight-hour period on a typical weekday.
 - (6) Existing site generated trips with a trip assignment.
 - (7) Identification of the peak hours (a.m., p.m., and Saturday) of the development and for adjacent streets with an explanation as to how the peak hours were selected.
 - (8) Development generated trips for the peak hours of the development and for adjacent streets and a trip assignment with an explanation as to how the assignment was made. If projected trips are adjusted for pass-by or diverted trips, an explanation as to how the adjustment was made shall be provided. Adjustment for pass-by trips shall be limited to 25% of site generated trips and 5% of the volume the traffic on the street serving the site.
 - (9) Peak hour(s) turning movement counts on all impacted intersections for the current year and the no-build and build conditions.
 - (10) Capacity analysis for the current year and the no-build and build conditions on all impacted streets and street segments. Said analysis shall be based on the Highway Capacity Manual Transportation Research Board, latest edition (where applicable), and shall include a queue analysis and critical volumes by signal phase or turning movement for each intersection studied.
 - (11) Gap analysis for unsignalized intersections and site driveways which experience excessive delay or are approaching capacity.
 - (12) Measures to mitigate traffic impacts to include:
 - (a) The process through which the mitigation will be authorized, financed, designed and implemented.

- (b) Capacity analysis on all impacted streets and intersections based on the mitigation proposed.
- (c) Review of potential impact to utilities, wetlands, archaeological/historical sites, etc.
- (d) Implementation schedule. If the development or the mitigation is phased, the study shall show how the mitigation will be implemented and function for each phase.
- (e) If site design and geometric changes are proposed, said changes shall be based on current engineering standards for turn pocket transition tapers, lane widths, sight distance, multiple lane configuration, and right-of-way widths. A description of said changes shall include:
 - [1] Scaled plan(s) (one inch equals 40 feet preferred) showing:
 - [a] Existing and proposed layout lines, building footprint(s), parking lot areas and driveways;
 - [b] The relationship of the site layout to existing rights-of-way with sight distances;
 - [c] Proposed geometric changes and widening (driveways, storage lanes, acceleration and deceleration lanes, turning lanes, etc.).
 - [2] A traffic management plan to maintain traffic flow on impacted street(s) and allow access to abutting properties by vehicles, pedestrians, and handicap persons during construction.
 - [3] Measures to mitigate traffic-generated noise and dust pollution.
- (f) If traffic signalization is proposed, a signal warrant analysis based on Manual on Uniform Traffic Control Devices (FHWA, latest edition).
- (g) Program to monitor the effects of the mitigation for a period of three years after implementation.
- (h) If signalization of an unsignalized intersection is proposed as mitigation, the applicant shall also provide alternative mitigation for the intersection. **[Amended 5-4-1999 STM by Art. 26]**

§ 135-1405. Traffic capacity.

- A. Prior to granting a SP or SPR, the SPGA shall determine there will be adequate capacity on all impacted streets for the build condition.
 - (1) If adequate capacity is projected on any impacted street for the no-build condition and a development causes a decrease in LOS the SPGA may require implementation of mitigative measures to restore the LOS to the no-build condition.
 - (2) If any impacted street does not have adequate capacity for the build condition, the SPGA shall take one of the following measures:

Chapter 195. ZONING

Article V. Off-Street Parking and Loading

§ 195-18. Reduction in number of required spaces.

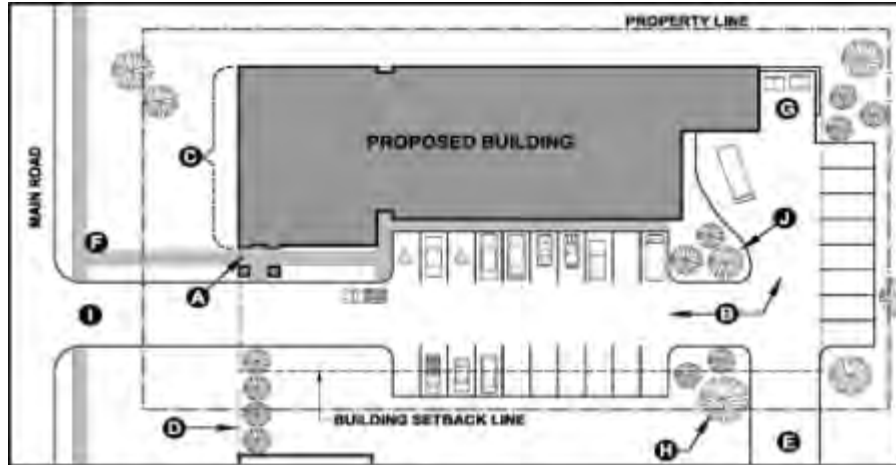
[Amended 10-21-2013 ATM by Art. 15]

A. Base parking reduction methods. The requirements of § **195-17** may be reduced up to a maximum of 25% with a special permit from the Planning Board if a property owner can demonstrate to the satisfaction of the Board that the required number of spaces will not be needed for the proposed use and that fewer spaces meet all parking needs. Such cases might include:

- (1) Use of a shared/common parking lot for separate uses having peak demands occurring at different times.
- (2) Age or other characteristics of occupants which reduce their auto usage.
- (3) Peculiarities of the use that make usual measures of demand invalid.
- (4) The area necessary for the reduced spaces is available on the lot.
- (5) If the use is located adjacent to a public right-of-way where striped on-street parking is available, the Board may allow the reduction of one off-street parking space required for each 20 linear feet of abutting right-of-way where on-street parking is located.
- (6) If an off-street public parking lot of 20 spaces or more exists within 300 feet of the principal land use, on-site parking may be reduced by an amount determined by the Planning Board, taking into consideration other users of the lot.
- (7) If a private off-street parking lot with sufficient space for long-term parking (such as employees) is within a seven-hundred-foot walking distance of the principal land use, on-site parking may be reduced by an amount determined by the Planning Board. The off-site parking must be secured by a legal agreement per § **195-16C(2)** above and the applicant must demonstrate that adequate parking for all of the uses sharing the parking facility exist.
- (8) Proximity to public transportation where it can be demonstrated to the Planning Board that consistent ridership results in less demand for on-site parking at the principal use.
- (9) Other transportation mitigation programs (TMP) such as car-sharing, carpooling, shuttle service, on-site bicycle commuter services, or other programs. A TMP plan must be submitted to the Planning Board and clearly demonstrate that the programs result in permanent reduction in the need for on-site parking.

B. Additional parking reduction methods. In addition to the parking reduction methods in Subsection A(1) through (9) above, required parking in § 195-17 may be reduced up to a maximum of 50% with a special permit from the Planning Board if one or more of the following methods is utilized for reducing the required number of parking spaces.

- (1) Payment to public parking fund. In lieu of providing the total minimum on-site parking required, the Planning Board may accept a one-time payment per required parking space for all or a portion of required on-site parking that would be committed to a fund for the construction of public parking in the district. The Planning Board shall establish the amount of payment required per parking space.
- (2) Public parking reserve. In lieu of providing the total minimum on-site parking required, the Planning Board may accept a permanent easement on the property for the purposes of constructing public parking for all or a portion of required on-site parking spaces. The reserve easement shall be subject to review and approval by the Planning Board.
- (3) Traffic circulation and pedestrian safety improvement incentives. On-site parking requirements may be reduced if one or more of the following pedestrian safety improvements are made on site:
 - (a) Permanently eliminates and/or significantly reduces the width of existing curb cuts in a manner that improves the pedestrian safety and access control on a primary public street; or
 - (b) Provides a perpetual agreement for one or more driveway consolidations or interconnections that will alleviate traffic on a primary street and facilitates shared use of off-street parking; or
 - (c) An internal sidewalk is provided with connections to the primary use entrance, on-site parking area, the adjacent public sidewalk, and adjacent uses (where appropriate).
 - (d) Public access through a permanent easement is provided to the Bruce Freeman Trail or the Beaver Brook and bike racks to accommodate at least two bicycles per eliminated parking space.



Label A on the diagram illustrated an internal pedestrian connection between the public sidewalk, main building entrance and on-site parking area.

C. Special permit criteria for reducing required parking spaces. Per § 195-18, the Planning Board may authorize a decrease in the required number of off-street parking spaces that will not create undue congestion, traffic hazards, or a substantial detriment to the business district or neighborhood, and does not derogate from the intent and purpose of this bylaw, subject to the following criteria:

(1) Placed into reserve (landbanked).

- (a) The reduction of on-site parking spaces shall not be used for building area except by special permit from the Planning Board. The Planning Board may require an area of 300 square feet per each waived parking space be labeled as "Reserve Parking" on the site plan.
- (b) The reserve parking spaces shall be properly designed, and verified with an engineered site plan, as an integral part of the overall parking development, and in no case shall any reserve parking spaces be located within areas counted as yard setbacks.
- (c) If, after one year from the date of issuance of a certificate of occupancy, the Building Inspector and/or Planning Board find that all or any of the reserve spaces are needed, the Planning Board may require that all or any portion of the spaces identified as reserve parking on the site plan be constructed within a reasonable time period, as specified in writing by the Planning Board following a public meeting with the owner of the property. Notice of the public meeting shall be by publication in a newspaper of general circulation in accordance with M.G.L. c. 40A, Section 11.

(2) Waived.

- (a) The Board may determine that all or a portion of the parking spaces are not needed and therefore not placed into reserve.

(3) Combination of reserve and waived.

Appendix Q

Town of Arlington's Zoning Bylaw

Article 8 Off-Street Parking and Loading Regulations

Section 8.13 Bicycle Parking

The area within the setback from the front lot line shall be landscaped and shall contain a compact hedge, fence, or berm at least three (3) feet high, placed parallel to the street except within ten (10) feet of driveways.

- (3) Parking shall not be located within the required front yard area in any district.
 - (4) Parking and loading spaces other than those required for single- and two-family dwellings shall be so arranged as not to permit backing of vehicles onto any street.
 - (5) Parking areas providing more than twenty-five (25) spaces shall include landscaped area which is at least eight (8) percent of the total paved portion of the parking area. Minimum required landscaped setbacks and buffers at the perimeter of the parking area shall not be counted toward the landscaping requirement of this paragraph. Individual strips of landscaping shall be at least four (4) feet in width.
- c. The standards of Section 8.12 may be modified to increase capacity for parking lots if both of the following conditions are satisfied as findings of a special permit:
- (1) Reasonable alternative measures have been taken to meet the intent of these standards which is to minimize traffic congestion entering and within parking lots, separate parking from pedestrian spaces, provide adequate drainage, screen parking lots from adjacent, residential uses and from street frontages (preferably with landscaped spaces), and facilitate snow removal and storage;
 - (2) All landscaped space required by section 8.12 is provided at some location in the parking lot, including required landscaping which may be lost in setbacks reduced in size by the provisions of this subsection.

The special permit for this subsection shall be heard and decided by the ZBA, except for petitions before the ARB in accordance with Section 11.06, in which case the modification of parking standards shall be heard and decided by the ARB.

Section 8.13 – Bicycle Parking

ART. 4, ATM 4/03

The intent of this section is to provide standards for orderly and safe bicycle parking.

Bicycle parking spaces shall be provided for any development subject to Environmental Design Review (Section 11.06). The bicycle parking requirement will be determined based on the number of motor vehicle parking spaces which have been permitted by the special permit granting authority; if fewer than 8 motor vehicle parking spaces are provided by special permit, bicycle parking will not be required.

- a. When bicycle parking is required, there will be one bicycle parking space per fifteen motor vehicle spaces, as required in Section 8.01- Off-Street Parking Requirements. The computed number of bicycle parking spaces will be rounded up to the nearest whole number of bicycle spaces. Bicycle parking spaces shall be provided in addition to motor vehicle parking spaces.
- b. When bicycle parking is required, there will be a minimum of 2 spaces provided; not more than 20 bicycle spaces will be required at a single site.
- c. A bicycle rack, or bicycle storage fixture or structure shall accommodate a bicycle 6 feet in length and 2 feet in width. Bicycle racks or storage fixtures must be secured against theft by attachment to a permanent surface. Bicycle parking apparatus shall be installed in a manner that will not obstruct pedestrian or motor vehicle traffic.

- d. To the extent feasible, bicycle parking shall be separated from motor vehicle parking to minimize the possibility of bicycle or auto damage.
- e. The following uses (“use” numbers in parentheses refer to Section 5.04 - Table of Use Regulations) are exempt from bicycle parking requirements: places of worship (2.05), cemetery (2.09), funeral home (6.10), automotive repair shop (6.03, 7.06, 7.07), car wash (6.04), gas station (6.05).

The requirements of this section may be modified by special permit where there is a finding by the special permit granting authority that, for the use and location, a modification is appropriate and in the best interest of the Town.

ARTICLE 6.000 OFF STREET PARKING AND LOADING REQUIREMENTS AND NIGHTTIME CURFEW ON LARGE COMMERCIAL THROUGH TRUCKS

Text current through Ordinance
#1363 of January 5, 2015.

- 6.10 INTENT AND APPLICABILITY
- 6.20 OFF STREET PARKING REGULATIONS
- 6.30 PARKING QUANTITY REQUIREMENTS
- 6.40 DESIGN AND MAINTENANCE OF OFF STREET PARKING FACILITIES
- 6.50 PARKING PLAN INFORMATION REQUIREMENTS
- 6.60 PURPOSE AND INTENT OF LOADING REQUIREMENTS
- 6.70 APPLICATION OF LOADING REQUIREMENTS
- 6.80 REQUIRED AMOUNT OF LOADING FACILITIES
- 6.90 LOCATION AND LAYOUT OF LOADING FACILITIES
- 6.100 BICYCLE PARKING

6.10 INTENT AND APPLICABILITY OF PARKING, BICYCLE PARKING AND LOADING REQUIREMENTS

6.11 *Intent.* It is the intent of this Article 6.000 to reduce traffic congestion, noise, vibrations, fumes and safety hazards caused by large commercial trucks, thereby promoting the safety, health and welfare of the public, by establishing requirements for off street parking, bicycle parking and loading and restrictions on the use of City street during the night-time by large commercial trucks with points of origin and destinations outside the City of Cambridge in order to implement the purposed of the The Zoning Act, Section 2A of Chapter 808, and Article 1.000. Section 1.30 of the Cambridge Zoning Ordinance, including:

- to lessen congestion in the streets
- to conserve health
- to conserve the value of land and buildings
- to prevent pollution of the environment
- to protect residential neighborhoods from incompatible activities, and
- to preserve and increase the amenities of the city.

The number of parking and loading spaces required herein varies according to type, location and intensity of development in the different zoning districts, and to proximity of public transit facilities. This Article 6.000 requires development of adequate parking facilities to meet the reasonable needs of all building and land users without establishing regulations which unnecessarily encourage automobile usage. The parking and bicycle parking standards contained herein are intended to encourage public transit, bicycle usage and walking in lieu of automobiles where a choice of travel mode exists. It is also the purpose of this Article to allow flexibility in providing required parking through shared or off site arrangements in order to accommodate the automobile in the urban environment in a less disruptive way. Development regulations and design standards have been established to reduce hazard to pedestrians on public sidewalks, to ensure the

usefulness of parking, bicycle parking and loading facilities, and where appropriate, to avoid potential adverse impacts on adjacent land uses, and to enhance the visual quality of the city.

6.12 Applicability. The off street parking and loading provisions of this Article 6.000 shall apply as follows:

- (a) For new structures erected and new uses of land established or authorized after the effective date of this Article 6.000 or any amendment thereto, as well as for external additions of Gross Floor Area to existing structures for any use, accessory off street parking and loading facilities shall be provided as required by the regulations for the districts in which such structures or uses are located.

In the case of an addition of Gross Floor Area to an existing structure (lawfully erected prior to the effective date of this Article 6.000 or any amendment thereto), which addition contains nonresidential uses, off street parking and loading facilities shall only be required when the total of such additions occurring from the effective date of this Article 6.000 or any amendment thereto increases the Gross Floor Area of the existing structure by fifteen (15) percent or more. If such an increase occurs, additional off street parking or loading facilities as required herein shall be provided for the total increase in intensity subsequent to the effective date of this Article 6.000 or any amendment thereto.

- (b) When the intensity of an existing use within any existing structure (or lot in the case of 6.36.7 l and m and 6.36.8 f and g) is increased through addition of dwelling units, floor area, seating capacity or other units of measurement specified in Section 6.30 or Section 6.60 (but not including any uses in a new external addition to that structure, which shall be subject to the provisions of Paragraph (a) above), off street parking and loading facilities shall be provided as required for such increase in intensity of use.

However, a nonresidential use lawfully established prior to the effective date of this Article 6.000 or any amendment thereto shall not be required to provide off street parking and loading facilities for such increase unless and until the aggregate increase in units of measure shall equal fifteen (15) percent or more of the units of measurement existing upon said effective date. If such an increase occurs, additional off street parking or loading facilities as required herein shall be provided for the total increase in intensity subsequent to the effective date of this Article 6.000 or any amendment thereto.

- (c) When the use of an existing structure (but not including the use of a new external addition to that structure, which shall be subject to the provisions of Paragraph (a) above) is changed to a new nonresidential use, off street parking and loading facilities shall be provided as required in the schedule of parking requirements in Subsection 6.36 and the schedule of loading requirements in Subsection 6.60. Any maximum requirements specified in Subsection 6.36, as well as minimum requirements, shall be applicable to such changes in use.
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However, if said structure was lawfully erected prior to the effective date of this Article 6.000 or any amendment thereto, additional off street parking and loading facilities shall be required only to the extent that the required amount for the new nonresidential use would exceed the amount required for the previous use if said previous use were subject to the schedule of parking and loading requirements.

In either case, the first four (4) spaces required need not be provided.

- (d) When the nonresidential use of an existing structure is changed to a residential use, off street parking facilities shall be provided as required in the schedule of parking requirements in Subsection 6.36. Any maximum requirements specified in Subsection 6.36, as well as minimum requirements, shall be applicable to such changes in use.
- (e) *Bicycle Parking.* Bicycle parking shall be provided according to the requirements set forth in Section 6.100. Wherever the term "parking" is used in this Zoning Ordinance without specific reference to bicycles, such term shall refer to parking for motor vehicles and not bicycles.

However, if said structure was lawfully erected prior to the effective date of this Article 6.000 or any amendment thereto and the nonresidential use of the structure is proposed to be changed to an Affordable Housing Project as herein defined, additional off street parking facilities shall be required as provided above, except that for that portion of the Project consisting of Affordable Units additional off street parking shall be provided at the rate of 60% of the parking otherwise required in Section 6.36.

For purposes of this Section 6.12 (d) an Affordable Housing Project shall be a residential development in which at least fifty percent (50%) of the dwelling units are considered Affordable Units for occupancy by Eligible Households as defined in Section 11.200 of the Zoning Ordinance.

- 6.13** *Scope of Off Street Parking Regulations.* All accessory parking facilities shall conform to all regulations set forth in this Article governing the use, design and operation of such facilities. However, the provisions of this Article 6.000, notwithstanding, any special parking requirements for townhouse developments specified in Section 11.10, for planned unit developments specified in Article 13.000, for projects in the Mixed Use Development District specified in Article 14.000 or for special permits specified elsewhere in this Ordinance shall be applicable for those projects.
- 6.14** *Restoration.* When an existing structure or use is restored and resumes operation after being destroyed or damaged by fire, explosion, or other catastrophe, off street parking, bicycle parking and loading facilities shall be provided at least equivalent to that in existence at the time of such destruction or damage. If the extent of such damage is such that the cost of restoration is fifty (50) percent or more of the replacement value of the structure or use, then parking, bicycle parking and loading facilities meeting the requirements of this Article 6.000 shall be provided. However, in no case shall it be necessary to replace or continue any parking, bicycle parking or loading facilities which were in excess of those required by the schedules of parking and loading requirements for equivalent amounts of new uses or construction.

- 6.15** *Existing Parking Facilities.* Accessory off street parking facilities established after March 15, 1961, shall not hereafter be reduced below - of if already less than, shall not be further reduced below - the minimum requirements under the provisions of this Article 6.000. Accessory off street parking facilities in existence as of March 15, 1961 shall only be required if such facilities have been used to satisfy parking requirements after March 15, 1961.
- 6.16** *Dedicated Off Street Parking Facilities.* Required off street parking facilities which after development are later dedicated to and accepted by the City and maintained by the City for off street parking purposes, shall be deemed to continue to serve the structures or uses to meet the requirements for which they were originally provided.
- 6.17** *Compatibility with the E.P.A. Clean Air Regulations* In addition to the regulations contained in this Article, all off street parking facilities must comply with restrictions contained in the Transportation Control Plan for the Metropolitan Boston Interstate Air Quality Control Region as promulgated by the United State Environmental Protection Agency to the extent the same are in force and effect.
- 6.18** *Compatibility with Handicapped Access Rules.* In addition to the regulations contained in this Article 6.000, all off street parking facilities must comply with the currently applicable "Rules and Regulations of the Architectural Barriers Board of the Commonwealth of Massachusetts" to the extent the same are in force and effect.
- 6.20** **OFF STREET PARKING REGULATIONS**
- 6.21** *Use.* All accessory parking facilities provided in accordance with this Article shall be maintained exclusively for the parking of motor vehicles so long as the use exists which the facilities were designed to serve. Such facilities shall not be used for automobile sales, dead storage, or repair work, dismantling or servicing of any kind, with the exception of emergency service when needed.
- 6.22** *Location.* All accessory off street parking facilities shall be located in accordance with the provisions of subsections 6.22.1, 6.22.2 and 6.22.3. For purposes of this Section 6.22 lot shall also mean the Development Parcel of any Planned Unit Development regulated by the provisions of Article 12.000 and Article 13.000 without regard to a lot or lots that may initially constitute the Development Parcel or any lot or lots created within the Development Parcel subsequent to the approval of the PUD by the Planning Board.
- 6.22.1** Accessory off street parking facilities may be located on the same lot as the use being served or on another lot that has the same or less restrictive zoning classification as the lot on which the use being served is located in accordance with the following conditions:
- (a) (1) said other lot is contiguous to the lot on which the use being served is located;
or
 - (2) said other lot is within three hundred (300) feet of the lot on which the use being served is located and the use being served is nonresidential; or
 - (3) said lot is within three thousand (3000) feet of the lot on which the use being served is located, such use is an institutional use listed in Subsection 6.36.3b
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In addition, the following signed and designated Hazardous Materials (HAZMAT) routes shall be open to Hazardous Material carriers at all times:

- the entirety of River Street; and
- the entirety of Western Avenue.

All trucks 2.5 tons or more in gross weight traveling on the following streets under the control and jurisdiction of the City of Cambridge are prohibited from using them at all times, except for a delivery or pick-up on these streets:

- the entirety of Putnam Avenue;
- the entirety of Cardinal Medeiros Avenue; and
- the entirety of Warren Street.

Nothing herein shall affect in any way restrictions on trucks currently in effect. Nothing herein shall affect the use of roadways under the control and jurisdiction of the Metropolitan District Commission or any state numbered routes, including the following:

- the entirety of Massachusetts Avenue (Route 2A);
- the entirety of Peabody Street (Route 2A);
- the entirety of the O'Brien Highway (Route 28);
- the entirety of Concord Parkway (Route 2);
- the entirety of the Alewife Brook Parkway and a portion of Concord Avenue designated as Routes 2, 3 & 16;
- the entirety of the Fresh Pond Parkway (Routes 2, 3 & 16);
- the entirety of Memorial Drive (Routes 2 & 3);
- the entirety of Land Boulevard;
- the entirety of Aberdeen Avenue (Route 16); and
- portions of Huron Avenue and Mount Auburn Street designated as Route 16.

6.100 BICYCLE PARKING

6.101 *Purpose.* In order to support the ongoing viability of bicycle travel as a transportation option that mitigates the impacts of automobile use, the following regulations are provided to ensure that secure, conveniently accessible bicycle parking is provided in adequate quantity to serve new development and land uses throughout the city.

6.102 *General Terms and Standards for Bicycle Parking*

6.102.1 *Definition and Use.* Bicycle parking, as the term is applied in this Zoning Ordinance, shall refer to the accessory storage of non-motorized bicycles (which may include trailers or other customary accessories) in a secure manner that allows for quick and convenient access, storage and removal of the bicycles by users who are making trips to or from the associated principal use.

6.102.2 Bicycle parking serving a principal use in accordance with this Article shall be maintained exclusively for the parking of bicycles, and not for the storage of other objects unrelated to bicycle use or for other purposes, so long as the use exists which the facilities were designed to serve. Bicycle parking facilities designed in accordance with this Article shall be

available for use at all times when the associated principal use is in operation, except when access may be restricted for necessary maintenance from time to time.

6.102.3 Wherever else in this Zoning Ordinance the term “parking” is used without specific reference to bicycle parking, such term shall refer only to parking for motor vehicles and not to bicycle parking.

6.102.4 *Bicycle Parking Spaces.* A Bicycle Parking Space shall be defined as an area within which one intact bicycle may be conveniently and securely stored and removed in an upright position with both wheels resting upon a stable surface, without requiring the use of a kickstand, and without requiring the movement of other parked bicycles, vehicles or other objects to access the space.

6.102.5 *Types of Bicycle Parking.* Bicycle Parking Spaces may be classified as Long-Term or Short-Term depending on their characteristics as set forth below.

- a. *Long-Term Bicycle Parking* shall be located within an enclosed, limited-access area designed so as to protect bicycles from precipitation and from theft. Long-Term Bicycle Parking shall be intended primarily to serve residents, employees or other persons who would require storage of a bicycle for a substantial portion of the day, for an overnight period, or for multiple days; however, it may serve other bicycle users as needed. Long-Term Bicycle Parking may be provided within the following types of facilities:
 - (i) Enclosed spaces within a building, such as bicycle rooms or garages.
 - (ii) Bicycle sheds, covered bicycle cages, or other enclosed structures designed to provide secure and fully covered parking for bicycles.
 - (iii) Bicycle lockers, or fixed-in-place containers into which single bicycles may be securely stored and protected.
 - (iv) Weather-protected bicycle parking spaces that are monitored at all times by an attendant or other security system to prevent unauthorized use or theft.
- b. *Short-Term Bicycle Parking* shall be located in a publicly accessible space near pedestrian entrances to the uses they are intended to serve. Short-Term Bicycle Parking shall be intended primarily to serve visitors, such as retail patrons, making trips of up to a few hours to a particular use; however, it may serve other bicycle users as needed. Short-Term Bicycle Parking may be provided adjacent to public streets and sidewalks, or in some cases within the public right of way, as set forth further below in this Section.

6.103 *Applicability of Bicycle Parking Requirements*

6.103.1 Bicycle parking requirements shall apply to the following projects, except where exempted by Subsection 6.103.2 below:

- a. The construction of a new building or establishment of a new open-air use on a lot.
 - b. An increase of at least fifteen percent (15%) in the number of residential dwelling units on a lot or in the amount of non-residential Gross Floor Area on a lot from the time of adoption of this Section 6.100.
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- c. The conversion of existing Gross Floor Area to a new category of non-residential use, where such conversion results in at least a fifteen percent (15%) increase in the total number of bicycle parking spaces that would be required for the entire building by this Section 6.100.

6.103.2 Notwithstanding the requirements in 6.103.1 above, bicycle parking shall not be required for the following:

- a. Detached one-family or two-family dwellings as set forth in Section 4.31, Paragraphs (a-c) of this Zoning Ordinance.
- b. The enlargement, expansion or conversion of an existing building, where the difference between the bicycle parking required for the proposed building and the bicycle parking that would be required for the existing building (under this Section 6.100) equals fewer than two (2) bicycle parking spaces.
- c. The enlargement, expansion or conversion of an existing building resulting in a dwelling containing three (3) or fewer dwelling units.

6.103.3 Where bicycle parking requirements are applicable pursuant to this Section, they shall be applied to the entirety of any use that is established, expanded or enlarged within a building or on a lot, and not only to the incremental increase in the intensity of such use.

6.104 *Location of Bicycle Parking*

6.104.1 *Long-Term Bicycle Parking* shall be provided within the building containing the use or uses that it is intended to serve, or within a structure whose pedestrian entrance is no more than two hundred feet (200') from a pedestrian entrance to such building. Long-Term Bicycle Parking serving multiple uses or buildings may be pooled into a single area, enclosure or facility. Where Long-Term Bicycle Parking is located adjacent to motor vehicle parking or loading facilities, a physical barrier shall be provided to prevent damage to bicycles by other vehicles.

6.104.2 *Short-Term Bicycle Parking* shall be located in one of the two following ways:

- a. *Private Lot.* Short-Term Bicycle Parking on a private lot shall be located within fifty feet (50') feet of a pedestrian entrance to the building or buildings containing the use or uses it serves. For buildings or uses requiring more than eight (8) Short-Term Bicycle Parking Spaces, some of the required spaces may be located at a greater distance from the entrances, so long as eight (8) Short-Term Bicycle Parking Spaces are available within fifty feet (50') of any entrance.
 - b. *Public Contribution.* If Short-Term Bicycle Parking cannot be reasonably provided on the lot, a property owner may satisfy the requirements for Short-Term Bicycle Parking by providing funds for the installation of bicycle parking on public land. The City shall determine the location and design of such bicycle parking, which may include permanent bicycle racks, seasonal bicycle corrals or other facilities, and may vary from the standards set forth in this Section 6.100. The City shall have the right to install bicycle parking on the sidewalk adjacent to the lot, or may choose to retain the funds provided in a Public Bicycle Parking Fund to support the installation or replacement of public bicycle parking at a future time. In either case, prior to issuance of a Certificate of Occupancy, the property owner shall enter into an agreement with the City which
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sets forth the cost of installing the required number of Bicycle Parking Spaces, which shall be the amount of funds provided by the owner, the timing by which payments are made, and each party's responsibilities for ongoing maintenance of the facilities, if applicable.

6.105 *Design and Layout of Bicycle Parking.* Required bicycle parking shall be provided in some combination of Bicycle Racks or Bicycle Lockers according to the standards set forth below. Other design options may be allowed pursuant to Section 6.108 further below.

6.105.1 *Bicycle Racks.* Long-Term Bicycle Parking or Short-Term Bicycle Parking requirements may be satisfied by the installation of Bicycle Racks which meet the design and layout standards set forth in this Subsection. Installers of Bicycle Racks may consult the *City of Cambridge Bicycle Parking Guide*, 2008 or later version, for illustrations of acceptable Bicycle Rack design and layout.

- a. A Bicycle Rack shall mean a fixed-in-place stand, solidly anchored to the ground or other fixed object, which allows a bicycle to lean against it in an upright position with both wheels on a level surface. A bicycle shall make contact with the stand at two (2) points along the length of the bicycle and shall allow one or both wheels to be locked to the stand by way of a cable, chain, U-lock or shackle. Types of permissible Bicycle Racks include, but are not necessarily limited to, those commonly known as "Inverted U-shape," "Swerve" and "Post-and-Ring" racks. Stands commonly known as "Wave Racks" do not meet the standards for Bicycle Racks set forth herein.
 - b. Each Bicycle Rack, if designed to the spacing requirements set forth herein, may provide up to two Bicycle Parking Spaces, with one Bicycle Parking Space provided on each side of the Bicycle Rack. If a Bicycle Rack meets the spacing requirements on one side of the stand but not the other (as may be the case where a Bicycle Rack is attached to a wall), then it may provide one Bicycle Parking Space,
 - c. A single interconnected structure may provide parking for more than two bicycles, in which case the term Bicycle Rack as applied in this Ordinance shall refer to any vertical element of the structure upon which one or two bicycles may be secured and which otherwise meets the layout standards set forth herein.
 - d. To provide adequate space to store and remove a standard bicycle, there shall be at least three feet (3') clear horizontal distance from the center point of the Bicycle Rack in a direction perpendicular to the length of the bicycle, and at least four feet (4') clear horizontal distance from the center point of the Bicycle Rack in each direction parallel to the length of the bicycle.
 - e. Where twenty (20) or more Bicycle Parking Spaces are required, at least five percent (5%) of the required spaces must provide an additional two feet (2') of space parallel to the length of the bicycle to accommodate tandem bicycles or bicycles with trailers.
 - f. Bicycle Racks shall generally be arranged either in rows (where bicycles are parked side-to-side) or in alignment (where bicycles are parked end-to-end). Where Bicycle Racks are arranged in rows, they shall be spaced at least three feet (3') apart on-center. Where Bicycle Racks are arranged in alignment, they shall be spaced at least eight feet (8') on-center.
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- g. In addition to the requirements set forth herein, all Bicycle Racks shall conform to any applicable federal, state or local requirements for accessibility by disabled persons.

6.105.2 *Bicycle Lockers.* Long-Term Bicycle Parking or Short-Term Bicycle Parking requirements may be satisfied by the installation of Bicycle Lockers which meet the design and layout standards set forth in this subsection.

- a. A Bicycle Locker shall mean an enclosed, lockable structure which a single user may open and close for the purpose of storing one or more bicycles. Although a Bicycle Locker is allowed to store more than one bicycle, for the purpose of meeting the requirements of this Section 6.100, a single-use Bicycle Locker may provide only one Bicycle Parking Space. A lockable structure may provide more than one Bicycle Parking Space only if it contains Bicycle Racks designed in accordance with the requirements of 6.105.1 above.
- b. A Bicycle Locker shall be secured by means of a lockable door or an object inside the Bicycle Locker to which the bicycle frame and one or both wheels may be secured by way of a cable, chain, U-lock or shackle.
- c. A Bicycle Locker must allow for a bicycle to stand upright within the locker without requiring the use of a kickstand.
- d. To accommodate a standard bicycle, a Bicycle Locker must provide an interior space at least two feet (2') in width and six feet (6') in length. However, as provided in 6.105.1(d) above, where twenty (20) or more Bicycle Parking Spaces are required, at least five percent (5%) of the required spaces must accommodate an additional two feet (2') of bicycle length to accommodate tandem bicycles or bicycles with trailers.
- e. In addition to the requirements set forth herein, all Bicycle Lockers shall conform to any applicable federal, state or local requirements for accessibility by disabled persons.

6.105.3 *Unacceptable Bicycle Parking Designs.* Bicycle Parking Spaces shall not be deemed to meet the requirements of this Section 6.100 if any of the following are true:

- a. Bicycles must be stored lying down or require a kickstand to remain upright.
- b. Bicycles must be "hung" with one or both wheels suspended in the air.
- c. Bicycles must be lifted off of the ground or floor without any physical assistance provided.

Otherwise, flexibility in the design of bicycle parking shall be allowed pursuant to the provisions for modification by special permit as set forth in Section 6.108 below. Such modifications shall allow for consideration of new or innovative technologies that provide equal or greater convenience and accessibility to bicyclists when compared to facilities designed according to the *Bicycle Parking Guide* standards.

6.106 *Access Standards for Bicycle Parking*

6.106.1 *Primary Access.* All Bicycle Parking Spaces must be accessible by way of at least one clear, stabilized-surface access route. Such access route shall connect to the Bicycle Parking Spaces from any point or points along the public right of way from which bicyclists would be reasonably expected to approach the site, and shall meet the following additional requirements:

- a. The primary access route must be at least five (5) feet in width.
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- b. If there is a change in grade from the public right-of-way to the Bicycle Parking Spaces, then the primary access route must have a slope no greater than five percent (5%), or may have a slope of no greater than eight percent (8%) if level landings are provided at every thirty (30) feet of linear distance; or access may be provided by means of an elevator with minimum interior dimensions of eighty (80) inches by fifty-four (54) inches.
- c. The primary access route must not require lifting bicycles over any steps or stairs.
- d. All access routes must be clear of obstructions, which shall include Bicycle Parking Spaces, motor vehicle parking spaces and loading spaces; however, doors or gates that must be opened to access the Bicycle Parking Spaces shall not be considered obstructions so long as they may be conveniently opened and closed by bicycle users.
- e. All access routes, along with the Bicycle Parking Spaces themselves, must be appropriately lighted to allow for safe nighttime use.

6.106.2 Additional Access. So long as there is at least one primary access route meeting the requirements set forth in Section 6.106.1 above, Bicycle Parking Spaces may be accessed secondarily by routes that do not meet those exact requirements, such as parking garage entrance ramps or stairways with adjacent flat stairway channels along at least one edge of the stairway. However, all access routes must be clear of obstructions as set forth in 6.106.1(d) above.

6.107 Required Quantities of Bicycle Parking

6.107.1 Minimum Number of Bicycle Parking Spaces. The required quantities of Long-Term Bicycle Parking Spaces and Short-Term Bicycle Parking Spaces shall be calculated by independently applying the minimum rates set forth in the Schedule of Long-Term Bicycle Parking Requirements and the Schedule of Short-Term Bicycle Parking Requirements below. Each rate shall be multiplied by the intensity of the applicable land use or uses, measured in Gross Floor Area, number of dwelling units, or other specified unit of measurement. Wherever the application of such rate results in a fractional value, such fraction shall be considered one required Bicycle Parking Space. The total number of Bicycle Parking Spaces required shall be the sum of the required Long-Term Bicycle Parking Spaces and Short-Term Bicycle Parking Spaces. Any Bicycle Parking Space that meets the requirements for both Long-Term Bicycle Parking and Short-Term Bicycle Parking may contribute to the minimum requirement for one type or the other, but not both.

6.107.2 Schedule of Long-Term Bicycle Parking Requirements. Minimum rates of Long-Term Bicycle Parking shall apply to specified categories of land use as set forth below. For specific land uses, the following categories are cross-referenced in the Schedule of Parking and Loading Requirements set forth in Section 6.36 of this Zoning Ordinance. In the case of any inconsistency between the list of included uses as set forth below and the categorization set forth in Section 6.36, the categorization in Section 6.36 shall control.

Category	Included Residential Uses	Min. Long-Term Bicycle Parking Rate
R1	Single-family dwellings, existing single-family dwellings converted for two families, two-family dwellings, rectory or parsonage	No minimum

Category	Included Residential Uses	Min. Long-Term Bicycle Parking Rate
R2	Townhouse dwellings, multifamily dwellings, trailer park or mobile home park	1.00 space per dwelling unit for the first twenty (20) units in a building; 1.05 spaces per dwelling unit for all units over twenty (20) in a building
R3	Elderly oriented housing, elderly oriented congregate housing	0.50 space per dwelling unit
R4	Group housing, including: lodging houses, convents or monasteries, dormitories, fraternities and sororities	0.50 space per bed
R5	Transient accommodations, including: tourist houses in an existing dwelling, hotels, motels	0.02 space per sleeping room

Category	Included Non-Residential Uses	Min. Long-Term Bicycle Parking Rate
N1	Offices, including: medical, professional, agencies, general, government; radio/television studios, arts/crafts studios	0.30 space per 1,000 square feet
N2	Technical offices, research facilities	0.22 space per 1,000 square feet
N3	Hospitals and clinics; veterinary clinics; public safety facilities; restaurants and eating establishments	0.20 space per 1,000 square feet
N4	Retail stores, consumer service uses, commercial recreation and entertainment	0.10 space per 1,000 square feet
N5	Transportation and utility uses; religious and civic uses; manufacturing, storage and other industrial uses, auto-related uses	0.08 space per 1,000 square feet
E1	Primary or secondary schools, vocational schools	0.30 space per classroom or 0.015 space per auditorium seat, whichever is greater
E2	College or university facilities (excluding residences)	0.20 space per 1,000 square feet
P	Automobile parking lots or parking garages for private passenger cars	1.00 space per 10 motor vehicle parking spaces

6.107.3 Schedule of Short-Term Bicycle Parking Requirements. Minimum rates of Short-Term Bicycle Parking shall apply to specified categories of land use as set forth below. For specific land uses, the following categories are cross-referenced in the Schedule of Parking and Loading Requirements set forth in Section 6.36 of this Zoning Ordinance. In the case of any inconsistency between the list of included uses as set forth below and the categorization set forth in Section 6.36, the categorization in Section 6.36 shall control.

Category	Included Residential Uses	Min. Short-Term Bicycle Parking Rate
R1	Single-family dwellings, existing single-family dwellings converted for two families, two-family dwellings, rectory or parsonage	No minimum
R2	Townhouse dwellings, multifamily dwellings, trailer park or mobile home park	0.10 space per dwelling unit on a lot
R3	Elderly oriented housing, elderly oriented congregate housing	0.05 space per dwelling unit
R4	Group housing, including: lodging houses, convents or monasteries, dormitories, fraternities and sororities	0.05 space per bed

Category	Included Residential Uses	Min. Short-Term Bicycle Parking Rate
R5	Transient accommodations, including: tourist houses in an existing dwelling, hotels, motels	0.05 space per sleeping room

Category	Included Non-Residential Uses	Min. Short-Term Bicycle Parking Rate
N1	Convenience and food stores, restaurants and eating establishments, theaters and commercial recreation	1.00 space per 1,000 square feet
N2	Retail stores and consumer service establishments	0.60 space per 1,000 square feet
N3	Passenger transportation; religious and civic uses; government offices, medical offices and clinics, agency offices, banks (ground floor only); veterinary clinics	0.50 space per 1,000 square feet
N4	Hospitals and infirmaries	0.10 space per 1,000 square feet
N5	Non-passenger transportation and utility uses; laboratories and research facilities; general, professional and technical offices; radio/television and arts/crafts studios; manufacturing, storage and other industrial uses; auto-related uses	0.06 space per 1,000 square feet
E1	Primary or secondary schools	1.70 space per classroom or 0.085 space per auditorium seat, whichever is greater
E2	College or university academic or administrative facilities	0.40 space per 1,000 square feet
E3	College or university student activity facilities	1.00 space per 1,000 square feet
P	Automobile parking lot or parking garage for private passenger cars (6.36.2 b)	No additional requirement for Short-Term Bicycle Parking; however, if motor vehicle parking is provided on an open lot, then required Long-Term Bicycle Parking Spaces may be converted to Short-Term Bicycle Parking Spaces.

6.107.4 Open-Air Uses. For any use that occupies land that is open to the air and not enclosed within a building, the minimum parking rate for the extent of such open-air use shall be applied per 3,000 square feet of land area instead of per 1,000 square feet of Gross Floor Area. For such uses, the combined sum of required Long-Term Bicycle Parking Spaces and Short-Term Bicycle Parking Spaces may be provided as Short-Term Bicycle Parking Spaces.

6.107.5 Permitted Flexibility. The quantities of Long-Term Bicycle Parking and Short-Term Bicycle Parking may be adjusted as-of-right in the following ways:

- a. For non-residential uses, up to twenty percent (20%) of the required number of Long-Term Bicycle Parking Spaces or four (4) spaces, whichever is greater, may be converted to Short-Term Bicycle Parking Spaces.
- b. For residential uses requiring four (4) Long-Term Bicycle Parking Spaces or fewer, the required Long-Term Bicycle Parking Spaces may be designed to meet the requirements for Short-Term Bicycle Parking Spaces, so long as they are covered to be protected from precipitation and are located on the same lot as the residential uses they serve.

6.108 *Modification of Requirements by Special Permit*

6.108.1 Any requirement set forth in this Section 6.100 may be modified upon the granting of a special permit by the Planning Board. Given that community standards for bicycle use and bicycle parking have evolved and may continue to evolve in the future, the intent of this provision is to provide a mechanism for the review and approval of alternative technologies and methods for providing bicycle parking that may provide equal or greater benefits to bicycle users but may not conform to the exact requirements set forth in this Section.

6.108.2 *Bicycle Parking Plan Requirements.* When seeking a special permit pursuant to this Section 6.108, the Applicant shall provide a Bicycle Parking Plan as part of the Special Permit Application. Such plan shall include the proposed quantities and locations of bicycle parking facilities as well as exact details and specifications of the design and layout of proposed Bicycle Parking Spaces. The Bicycle Parking Plan shall include a narrative listing the requirements that are proposed to be modified and explaining how the Bicycle Parking Plan would benefit from such modifications. The Bicycle Parking Plan may also include quantitative analyses of expected bicycle usage for the proposed land uses.

6.108.3 *Findings and Approval.* Upon granting a special permit to modify any requirements of this Section 6.100, the Planning Board shall make a general determination that the proposal is consistent with the purpose of this Section 6.100 and that the Bicycle Parking Plan proposes a quantity, design and arrangement of bicycle parking that will serve bicycle users in a way that is sufficiently comparable, given the circumstances of the specific project, to the bicycle parking that would be required under the regulations of this Section 6.100. The Planning Board shall also make specific determinations applicable to the modifications being sought as set forth below:

- a. Where an alternative design or layout of Bicycle Parking Spaces is proposed, the Planning Board shall determine that such design or layout shall be durable and convenient for the users whom it is intended to serve. Where new technologies are proposed, the Board may require that the Applicant demonstrate such technologies for review by City staff.
 - b. Where modifications to the location or quantity of bicycle parking is proposed, the Planning Board shall determine that the Bicycle Parking Plan will satisfactorily serve the needs of all expected users, based on quantitative and/or qualitative evidence provided by the Applicant. Such a modification may be appropriate for a campus master plan or other large development site within which bicycle parking is planned comprehensively across an area instead of on a specific site-by-site basis.
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set above road surface at each end of the clear sight distance. Inside the clear sight triangle, no vision obstructing object or landscaping shall be permitted between a height of three-and-one-half (3.5) feet and eight (8) feet above the plane identified by the adjacent curb grades.

3156. Parking Lot Plantings. Parking lots containing ten (10) or more parking spaces shall have at least one tree per eight (8) parking spaces, such trees to be located either within the lot or within five (5) feet of it. Such trees shall be at least two (2) inches trunk diameter with not less than sixty (60) square feet of unpaved soil or other permeable surface area per tree. At least five (5%) percent of the interior of any parking lot having twenty-five (25) or more spaces shall be maintained with landscaping, including trees, in plots of at least eight (8) feet in width. Trees and soil plots shall be so located as to provide visual relief and sun and wind interruption within the parking area, and to assure safe patterns of internal circulation.
3157. Bicycle Racks. For parking areas of ten (10) or more spaces, bicycle racks facilitating locking shall be provided to accommodate one bicycle per twenty (20) parking spaces required or fraction thereof. No more than two (2) bicycle racks shall be required to be supplied regardless of parking lot size.
3158. Design Standards. Parking areas, access and egress must be constructed as follows:
- a) Twelve (12) inch gravel base course with ninety-five (95%) percent compaction.
 - b) The gravel base course shall be primed at a rate of one-half (1/2) gallons per square yard of MC-70 (or the equivalent) cut back asphalt (tack coat)
 - c) Parking lot pavement shall be a minimum of three (3) inches in thickness set in two (2) courses as follows:
 1. BINDER – two (2) inches (minimum).
 2. TOP COURSE – one (1) inch (minimum).
 3. Pavement shall comply with MassHighway standards and shall be compacted to a minimum of ninety-five (95%) percent laboratory density.
 - d) Parking Lot Perimeter Curbs: suitable curbing as approved by the Board shall be installed along the exterior perimeters of the parking lot.
 - e) Interior Parking Lot Islands: interior parking lot islands shall be installed with either Cape Cod berms, vertical or sloped granite curbing or Portland Cement type concrete as approved by the Board.
 - f) All illumination of parking, loading and service areas must be designed so as to not create glare on abutting properties. Light intensity at the property line shall be zero-foot candles or less to comply with this Bylaw.
 - g) The design of each parking area shall provide adequate amenities to pedestrian safety, including but not limited to placement of crosswalks situated within and to the lot itself.
3159. Grading and Drainage

Section 33.266.110 Minimum Required Parking Spaces

Sections E.3 and E.7 from Exceptions to the Minimum Number of Parking Spaces³ signed for exclusive

3. Signs must be posted indicating these spaces are reserved for carpool use before 9:00 AM on weekdays.

D. Minimum for sites well served by transit. For sites located less than 1500 feet from a transit station or less than 500 feet from a transit street with 20-minute peak hour service, the minimum parking requirement standards of this subsection apply. Applicants meeting these standards must provide a map identifying the site and TriMet schedules for all transit routes within 500 feet of the site. The minimum number of parking spaces is:

1. Household Living uses. The minimum number of parking spaces required for sites with Household Living uses is:
 - a. Where there are up to 30 units on the site, no parking is required;
 - b. Where there are 31 to 40 units on the site, the minimum number of parking spaces required is 0.20 spaces per unit;
 - c. Where there are 41 to 50 units on the site, the minimum number of parking spaces required is 0.25 spaces per unit; and
 - d. Where there are 51 or more units on the site, the minimum number of parking spaces required is 0.33 spaces per unit.
2. All other uses. No parking is required for all other uses.

E. Exceptions to the minimum number of parking spaces.

1. The minimum number of required parking spaces may not be reduced by more than 50 percent through the exceptions of this subsection. The 50 percent limit applies cumulatively to all exceptions in this subsection.
2. Exceptions for sites where trees are preserved. Minimum parking may be reduced by one parking space for each tree 12 inches in diameter and larger that is preserved. A maximum of 2 parking spaces or 10 percent of the total required may be reduced, whichever is greater. However, required parking may not be reduced below 4 parking spaces under this provision.
3. Bicycle parking may substitute for up to 25 percent of required parking. For every five non-required bicycle parking spaces that meet the short or long-term bicycle parking standards, the motor vehicle parking requirement is reduced by one space. Existing parking may be converted to take advantage of this provision.
4. Substitution of transit-supportive plazas for required parking. Sites where at least 20 parking spaces are required, and where at least one street lot line abuts a transit street may substitute transit-supportive plazas for required parking, as follows. Existing parking areas may be converted to take advantage of these provisions. Adjustments to the regulations of this paragraph are prohibited.

- a. Transit-supportive plazas may be substituted for up to 10 percent of the required parking spaces on the site;
 - b. The plaza must be adjacent to and visible from the transit street. If there is a bus stop along the site's frontage, the plaza must be adjacent to the bus stop;
 - c. The plaza must be at least 300 square feet in area and be shaped so that a 10'x10' square will fit entirely in the plaza; and
 - d. The plaza must include all of the following elements:
 - (1) A plaza open to the public. The owner must record a public access easement that allows public access to the plaza;
 - (2) A bench or other sitting area with at least 5 linear feet of seating;
 - (3) A shelter or other weather protection. The shelter must cover at least 20 square feet. If the plaza is adjacent to the bus stop, TriMet must approve the shelter; and
 - (4) Landscaping. At least 10 percent, but not more than 25 percent of the transit-supportive plaza must be landscaped to the L1 standard of Chapter 33.248, Landscaping and Screening. This landscaping is in addition to any other landscaping or screening required for parking areas by the Zoning Code.
5. Motorcycle parking may substitute for up to 5 spaces or 5 percent of required automobile parking, whichever is less. For every 4 motorcycle parking spaces provided, the automobile parking requirement is reduced by one space. Each motorcycle space must be at least 4 feet wide and 8 feet deep. Existing parking may be converted to take advantage of this provision.
6. Substitution of car sharing spaces for required parking. Substitution of car sharing spaces for required parking is allowed if all of the following are met:
- a. For every car-sharing parking space that is provided, the motor vehicle parking requirement is reduced by two spaces, up to a maximum of 25 percent of the required parking spaces;
 - b. The car-sharing parking spaces must be shown on the building plans; and
 - c. A copy of the car-sharing agreement between the property owner and the car-sharing company must be submitted with the building permit.
7. Substitution of bike sharing facility for required parking. Substitution of a bike sharing facility for required parking is allowed if all of the following are met:
- a. A bike sharing station providing 15 docks and eight shared bicycles reduces the motor vehicle parking requirement by three spaces. The provision of each addition of four docks and two shared bicycles reduces

the motor vehicle parking requirement by an additional space, up to a maximum of 25 percent of the required parking spaces;

- b. The bike sharing facility must be adjacent to, and visible from the street, and must be publicly accessible;
- c. The bike sharing facility must be shown on the building plans; and
- d. Bike sharing agreement.
 - (1) The property owner must have a bike sharing agreement with a bike-sharing company;
 - (2) The bike sharing agreement must be approved by the Portland Bureau of Transportation; and
 - (3) A copy of the signed agreement between the property owner and the bike-sharing company, accompanied by a letter of approval from the Bureau of Transportation, must be submitted before the building permit is approved.

Table 266-1 Minimum Required and Maximum Allowed Parking Spaces By Zone [1]	
Zone	Requirement
OS, RF - RH, IR, CN2, CO2, CG, EG, I	Minimum is Standard A in Table 266-2. Maximum is Standard B in Table 266-2.
EX	Minimum – None, except: Household Living: minimum of 0 for 1 to 3 units, 1 per 2 units for four+ units, and SROs exempt... Maximum is Standard A in Table 266-2, except: 1) Retail, personal service, repair-oriented - Maximum is 1 per 200 sq. ft. of floor area. 2) Restaurants and bars - Maximum is 1 per 75 sq. ft. of floor area. 3) General office – Maximum is 1 per 400 sq. ft. of floor area. 4) Medical/Dental office – Maximum is 1 per 330 sq. ft. of floor area.
CN1	Minimum – None. Maximum of 1 space per 2,500 sq. ft. of site area.
CM, CS, RX, CX, CO1	Minimum – None, except:: Household Living: minimum of 0 for 1 to 30 units, 0.2 per unit for 31-40 units, 0.25 per unit for 41-50 units, and 0.33 per unit for 51+ units. Maximum is Standard B in Table 266-2.

[1] Regulations in a plan district or overlay zone may supersede the standards of this table.

Table 266-2 Parking Spaces by Use (Refer to Table 266-1 to determine which standard applies.)			
Use Categories	Specific Uses	Standard A	Standard B
Residential Categories			
Household Living		1 per unit, except SROs exempt and in RH, where it is 0 for 1 to 3 units and 1 per 2 units for four + units	None
Group Living		1 per 4 residents	None
Commercial Categories			
Retail Sales And Service	Retail, personal service, repair oriented	1 per 500 sq. ft. of floor area	1 per 196 sq. ft. of floor area
	Restaurants and bars	1 per 250 sq. ft. of floor area	1 per 63 sq. ft. of floor area
	Health clubs, gyms, lodges, meeting rooms, and similar. Continuous entertainment such as arcades and bowling alleys	1 per 330 sq. ft. of floor area	1 per 185 sq. ft. of floor area
	Temporary lodging	1 per rentable room; for associated uses such as restaurants, see above	1.5 per rentable room; for associated uses such as restaurants, see above
	Theaters	1 per 4 seats or 1 per 6 feet of bench area	1 per 2.7 seats or 1 per 4 feet of bench area
Office	General office	1 per 500 sq. ft. of floor area	1 per 294 sq. ft. of floor area
	Medical/Dental office	1 per 500 sq. ft. of floor area	1 per 204 sq. ft. of floor area
Quick Vehicle Servicing		1 per 500 sq. ft. of floor area	1 per 196 sq. ft. of floor area
Vehicle Repair		1 per 750 sq. ft. of floor area [1]	1 per 500 sq. ft. of floor area
Commercial Parking		Not applicable	None
Self-Service Storage		[2]	[2]
Commercial Outdoor Recreation		20 per acre of site	30 per acre of site
Major Event Entertainment		1 per 8 seats or per CU review	1 per 5 seats or per CU review
Industrial Categories			
Manufacturing And Production		1 per 750 sq. ft. of floor area [1]	1 per 500 sq. ft. of floor area
Warehouse And Freight Movement		1 per 750 sq. ft. of floor area for the first 3,000 sq. ft. of floor area and then 1 per 3,500 sq. ft. of floor area thereafter [1]	1 per 500 sq. ft. of floor area for the first 3,000 sq. ft. of floor area and then 1 per 2,500 sq. ft. of floor area thereafter
Wholesale Sales, Industrial Service, Railroad Yards		1 per 750 sq. ft. of floor area [1]	1 per 500 sq. ft. of floor area
Waste-Related		Per CU review	Per CU review

Use Categories	Specific Uses	Standard A	Standard B
Institutional Categories			
Basic Utilities		None	None
Community Service		1 per 500 sq. ft. of floor area	1 per 196 sq. ft. of floor area
Parks And Open Areas		Per CU review for active areas	Per CU review for active areas
Schools	Grade, elementary, middle, junior high	1 per classroom, or per CU or Impact Mitigation Plan approval	1.5 per classroom, or per CU or Impact Mitigation Plan approval
	High school	7 per classroom, or per CU or Impact Mitigation Plan approval	10.5 per classroom, or per CU or Impact Mitigation Plan approval
Medical Centers		1 per 500 sq. ft. of floor area; or per CU review or Impact Mitigation Plan approval	1 per 204 sq. ft. of floor area; or per CU review or Impact Mitigation Plan approval
Colleges		1 per 600 sq. ft. of floor area exclusive of dormitories, plus 1 per 4 dorm rooms; or per CU review or Impact Mitigation Plan approval	1 per 400 sq. ft. of floor area exclusive of dormitories, plus 1 per 2.6 dorm rooms; or per CU review or Impact Mitigation Plan approval
Religious Institutions		1 per 100 sq. ft. of main assembly area; or per CU review	1 per 67 sq. ft. of main assembly area; or per CU review
Daycare		1 per 500 sq. ft. of floor area	1 per 330 sq. ft. of floor area
Other Categories			
Agriculture		None, or per CU review	None, or per CU review
Aviation		Per CU review	Per CU review
Detention Facilities		Per CU review	Per CU review
Aggregate Extraction		Per CU review	Per CU review
Radio Frequency Transmission Facilities	Personal wireless service and other non-broadcast facilities	None	None
	Radio or television broadcast facilities	2 per site	None
Rail Lines & Utility Corridors		None	None

Notes:

- [1] For uses in an EG or I zone, if the site size is 5,000 sq. ft. or less, no more than 4 spaces are required. Where the site size is between 5,001 and 10,000 sq. ft., no more than 7 spaces are required.
- [2] Minimum of 1 per resident manager's facility, plus 3 per leasing office, plus 1 per 100 leasable storage spaces in multi-story buildings. Maximum of 2 per resident manager's facility, 5 per leasing office, 1 per 67 leasable storage spaces in multi-story buildings.

Chapter 350. Zoning
§ 350-11.6. Approval criteria.

In conducting the site plan approval, the Planning Board shall find that the following conditions are met:

A. The requested use protects adjoining premises against seriously detrimental uses. If applicable, this shall include provision for surface water drainage, sound and sight buffers and preservation of views, light, and air; and

B. The requested use will promote the convenience and safety of vehicular and pedestrian movement within the site and on adjacent streets, cycle tracks and bike paths, minimize traffic impacts on the streets and roads in the area. If applicable, this shall include considering the location of driveway openings in relation to traffic and adjacent streets, cross-access easements to abutting parcels, access by public safety vehicles, the arrangement of parking and loading spaces, connections to existing transit or likely future transit routes, and provisions for persons with disabilities; and:

(1) The Planning Board may allow reduced parking requirements in accordance with § 350-8.6, Shared parking.

(2) The project, including any concurrent road improvements, will not decrease the level of service (LOS) of all area City and state roads or intersections affected by the project below the existing conditions when the project is proposed and shall consider the incremental nature of development and cumulative impacts on the LOS. The project proponent must demonstrate that all cumulative and incremental traffic impacts have been mitigated. If those impacts are not mitigated, the Planning Board shall require in-lieu-of payments to fund a project's proportional share of necessary improvements to mitigate off-site traffic impacts, including provision of public transit and pedestrian or bicycle paths, in lieu of requiring off-site improvements. All in-lieu-of payments will be expended with the approval of the Mayor and City Council only after first being introduced for recommendation to the Transportation and Parking Commission, consistent with Planning Board conditions. In-lieu-of traffic mitigation payment shall be assessed by the Planning Board after a fact-based analysis of a specific project but shall not exceed that shown in the table below. Past experience has been that mitigation of all traffic impacts would be higher than the maximum amount allowed and so many projects are assessed the maximum allowed by the table. The Board may exempt residential projects whose traffic impacts are not greater than if they were developed as an as-of-right development without site plan approval and subdivision approval.

Project Location	Required Payment
Any medical marijuana project regardless of the district (regardless of other entries below)	\$2,000 per peak trip
CB, GB, EB, GI and OI Zoning Districts; PV District, except for medical and dental offices; and NB District, except for uses with gas pumps	No mitigation
M, URC, and URB Zoning Districts	\$1,000 per peak trip
HB Zoning District; PV District for project for medical and dental offices; NB Districts for uses with gas pumps; BP Districts with nonexempt uses; and BP, SR, URA, SC and RR Zoning Districts for sites (1) within 500 feet of a transit stop, or (2) within 500 feet of an asphalt or concrete City off-road rail trail or bicycle path, or (3) abutting a sidewalk that extends without a break from the project to either downtown Northampton or downtown Florence	\$2,000 per peak trip
Any other site in SR, URA, SC, and RR Zoning Districts and any other BP residential use	\$3,000 per peak trip

Notes Peak trips are the number of one-way trips into or out of the project during the project's peak traffic demand, typically but not always weekday afternoon "rush hour." Peak-hour trips are calculated based on the table below or, if (and only if) the table does not address a project, the Institute of Traffic Engineers' (ITE) trip generation data. The Planning Board retains the ability to use alternative calculations if clear evidence to the contrary is provided (for example, considering lower traffic generation from pass-by trips, late-night shift changes, and mixed-use projects).

Project Type	Peak-Hour Trips
Residential	1/dwelling unit
Congregate and assisted living	0.6/dwelling unit
Grocery, personal services, retail and auto sales, medical marijuana dispensary	12/1,000 square feet
Medical marijuana growing and processing facilities	1/1,000 square feet
Restaurants and bars	20/1,000 square feet
Gas, convenience stores, fast-food restaurants	100/1,000 square feet
Medical and dental offices	5/1,000 square feet
Other offices	2/1,000 square feet
Industrial, manufacturing, tradesman, professional (but not medical and dental) offices, and municipal uses	Exempt
Warehouses	0.6/1,000 square feet
Schools, day-cares, churches, libraries, etc.	10/1,000 square feet
Hotel/Motel	0.5/room

(3) Access by nonmotorized means must be accommodated with facilities such as bike racks, sidewalk connections from the building to the street, cycle tracks, and bike paths that are clearly delineated through materials and/or markings to distinguish the vehicular route from the nonvehicular route.

C. The site will function harmoniously in relation to other structures and open spaces to the natural landscape, existing buildings and other community assets in the area as it relates to landscaping, drainage, sight lines, building orientation, massing, egress, and setbacks. Rear and/or side wall facades within 50 feet of a completed or planned section of a cycle track or bike path shall have features that invite pedestrian access from that side of the building; and

D. The requested use will not overload, and will mitigate adverse impacts on, the City's resources, including the effect on the City's water supply and distribution system, sanitary and storm sewage collection and treatment systems, fire protection, streets and schools. The construction materials and methods for water lines, sanitary sewers, storm sewers, fire protection, sidewalks, private roads, and other infrastructure shall be those set forth in the Northampton Subdivision Regulations^[1] (even for projects that are not part of a subdivision) unless the Planning Board finds that a different standard is more appropriate.

[1] *Editor's Note: See Ch. 290, Subdivision of Land.*

E. The requested use meets any special regulations set forth in this chapter.

F. Compliance with the following technical performance standards:

(1) Curb cuts onto streets shall be minimized. Access to businesses shall use common driveways, existing side streets, or loop service roads shared by adjacent lots when possible. More than one curb cut shall be permitted only when necessary to minimize traffic and safety impacts.

(2) Pedestrian, bicycle and vehicular traffic movement on site must be separated, to the extent possible, and sidewalks must be provided between businesses within a development and from public sidewalks, cycle tracks and bike paths.

(3) Major projects, except in the Central Business District, must be designed so there is no increase in peak flows from the one- or two- and ten-year Soil Conservation Service design storm from predevelopment conditions (the condition at the time a site plan approval is requested) and so that the runoff from a four- to ten-inch rain storm (first flush) is detained on site for an average of six hours. These requirements shall not apply if the project will discharge into a City storm drain system that the Planning Board finds can accommodate the expected discharge with no adverse impacts. In addition, catch basins shall incorporate sumps of a minimum of three feet and, if they will remain privately owned, a gas trap.

(4) Medical marijuana operations shall meet the following criteria:

(a) Building facades and property must be consistent with the character of the neighborhood, including such items as transparent storefront windows with a view into the interior of the building. Security measures must appear from outside of the building to be consistent with the character of the neighborhood. This does not create any restriction or compromise on security measures but does require that such measures be camouflaged to blend into the background.

(b) Buildings must be ventilated with such filters or scrubbers to ensure that there are no odors from marijuana in any place where the public or clients are present and no public exposure to any pesticides, herbicides or other chemicals.

(c) No medical marijuana dispensary and/or treatment center shall be located within 200 feet of any elementary school, middle school, or high school; there are no other buffer limitations.

G. (Reserved)

H. (Reserved)

I. Obscene displays; blocking or shading of windows.

(1) No signs, text, graphics, pictures, publications, videotapes, CDs, DVDs, movies, covers, merchandise or other objects, implements, items or advertising depicting or describing sexual conduct or sexual excitement as defined in MGL c. 272, § 31, shall be displayed in the windows or on any building or be visible to the public from the street, pedestrian sidewalks, walkways, or bike paths or from other areas outside such establishments.

(2) Further, windows may only be blocked or shaded by approval of the Planning Board through site plan approval.

upon the issuance of a special permit by the Planning Board if the Board finds that the reduction is not inconsistent with public health and safety, or that the reduction promotes a public benefit. Such cases might include:

- a. Use of a common parking lot for separate uses having peak demands occurring at different times.
- b. Age or other characteristics of occupants of the facility requiring parking which reduces auto usage.
- c. Peculiarities of the use which make usual measures of demand invalid.
- d. Availability of on street parking or parking at nearby municipally owned facilities.
- e. Where a special permit is granted, a reserve area to be maintained indefinitely as landscaped open space may be required sufficient to accommodate the difference between the spaces otherwise required and the spaces reduced by special permit. The parking/site plan shall show (in dotted outline) how the reserve area would be laid out to provide the otherwise required number of spaces.

5.1.5 Special Permit in the B-1 District. *(Section added STM 12.2.03 Art 16, AG Approved 3.26.04, Published 4.9.04)*

1. **Purpose.** The B-1 District is the business area of Oak Bluffs. Parking generally provided on street to shoppers and business employees. This by-law has been adopted pursuant to M.G.L. c. 40A, s 9 in order to authorize an increase in intensity of uses in the B-1 District where the applicant provides traffic and pedestrian improvements and other amenities.
2. **Required Parking** Uses in the B-1 District shall meet the off street parking requirements set forth in Section 5.1.1, herein
3. **Special Permit** Where a proposed use in the B-1 District cannot meet the off street parking requirements set forth in Section 5.1.1 such off street parking requirements may be waived by special permit granted by the Planning Board where the applicant makes a payment in lieu to the Oak Bluffs B-1 District Parking Mitigation Trust.
4. **Payment in Lieu** Payments in lieu shall be calculated using the following formula:

Number of Required Off-street Parking Spaces	1-5	Each additional space 6-15	Each additional space after the first 15
Annual Payment in	\$100/space	\$75/space	\$50/space

Appendix W

Acton's Zoning Bylaw

Chapter 10 Administration

Section 10.4 Site Plan Special Permit

Section 10.4.4 Reserve Parking Spaces

able to the SM District – On LOTS in the Small Manufacturing District of Selectmen, when granting a new or amended Site Plan Special Permit, may decrease the Maximum FLOOR AREA RATIO and the Maximum Maximum FLOOR AREA RATIO set forth for BUILDINGS and STRUCTURES in the Table of Regulations, subject to the following conditions and limitations:

- 10.4.3.12.1 To be eligible under this Section 10.4.3.12, a LOT shall have on it IMPERVIOUS COVER as defined in Section 4.3 – GROUNDWATER Protection District of this Bylaw, which by its size or coverage may or may not be conforming to the limitations of this Bylaw, but shall have been installed or constructed legally in accordance with the zoning bylaw standards in effect at the time of installation or construction.
 - 10.4.3.12.2 To be eligible under this Section 10.4.3.12 and to retain ongoing eligibility, the amount and percentage on the LOT of OPEN SPACE, and of UNDISTURBED OPEN SPACE as defined in Section 4.3 – GROUNDWATER Protection District of this Bylaw, shall not be reduced below the amount and percentage existing on the LOT on or before January 1, 2006; and the amount and percentage on the LOT of IMPERVIOUS COVER as defined in Section 4.3 – GROUNDWATER Protection District of this Bylaw shall not be increased above the amount and percentage existing on the LOT on or before January 1, 2006.
 - 10.4.3.12.3 Eligibility under this Section 10.4.3.12 shall be limited to the following USES on the LOT, provided they are otherwise allowed in the SM District, and subject to the applicable regulations of the Groundwater Protection District Zone that overlays the LOT: Municipal; Child Care Facility; Industrial USES; and Business USES except Office, Health Care Facility, Hospital, Medical Center, and Commercial Recreation.
 - 10.4.3.12.4 Any Maximum Height increases under this section shall not result in a height of BUILDINGS and STRUCTURES greater than 45 feet, plus 12 feet for appurtenant roof STRUCTURES that in aggregate may not occupy more than 20% of the roof plan area.
 - 10.4.3.12.5 Any NET FLOOR AREA increases under this section shall not increase the Maximum FLOOR AREA RATIO above 0.50.
 - 10.4.3.12.6 There shall remain adequate space for vehicular parking on the site that meets the applicable requirements of Section 6 of this Bylaw for the USE or USES on the LOT.
- 10.4.4 Reserve Parking Spaces – Under a Site Plan Special Permit, the Board of Selectmen may authorize a decrease in the number of parking spaces and shall have the authority to require an increase in the number of parking spaces required under Section 6, in accordance with the following:
- 10.4.4.1 The Board of Selectmen may authorize a decrease in the number of parking spaces required under Section 6 provided that:
 - 1) The decrease in the number of parking spaces is no more than 75% of the total number of spaces required under Section 6. The waived parking shall be set aside and shall not be intended for immediate construction. Such spaces shall be labeled as "Reserve Parking" on the site plan.
 - 2) Any such decrease in the number of required parking spaces shall be based upon documentation of the special nature of a USE or BUILDING.
 - 3) The parking facility in question has made optimum use of the small car parking provision as prescribed in Section 6.6, if applicable.

- 4) The parking spaces labeled "Reserve Parking" on the site plan shall be properly designed as an integral part of the overall parking layout, located on land suitable for parking development and in no case located within area counted as buffer, parking setback or OPEN SPACE.
 - 5) The decrease in the number of required spaces will not create undue congestion or traffic hazards and that such relief may be granted without substantial detriment to the neighborhood and without derogating from the intent and purpose of this Bylaw.
 - 6) Such relief may be granted without substantial detriment to the neighborhood and without derogating from the intent and purpose of this Bylaw.
- 10.4.4.2 If, at any time after the Certificate of Occupancy is issued for the BUILDING or USE, the Zoning Enforcement Officer determines that additional parking spaces are needed, the Zoning Enforcement Officer shall notify the Board of Selectmen, in writing, of such finding and the Board of Selectmen may require that all or any portion of the spaces shown on the approved site plan as "Reserve Parking" be constructed.
- 10.4.4.3 The Board of Selectmen may require provisions for an increase in the number of parking spaces required under Section 6 provided that:
- 1) The increase in the number of parking spaces is no more than 20% of the total number of spaces required under Section 6 for the USE in question.
 - 2) Any such increase in the number of required parking spaces shall be based upon the special nature of a USE or BUILDING.
 - 3) The increased number of parking spaces shall be labeled "Increased Reserve Parking" on the site plan and shall be properly designed as an integral part of the overall parking layout, located on land suitable for parking development and in no case located within area counted as buffer or parking setback. The applicant shall not be required to construct any of the parking spaces labeled as "Increased Reserve Parking" for at least one year following the issuance of a Certificate of Occupancy. Where the "Increased Reserve Parking" area is required and the applicant has otherwise provided the number of parking spaces required under Section 6, the area of land reserved for the increased number of parking spaces may be deducted from the minimum OPEN SPACE required under Section 5.
- 10.4.4.4 If after one year after the issuance of a Certificate of Occupancy the Zoning Enforcement Officer finds that all or any of the "Increased Reserve Spaces" are needed, the Zoning Enforcement Officer shall notify the Board of Selectmen, in writing, of such finding and the Board of Selectmen may require that all or any portion of the spaces identified as "Increased Reserve Spaces" on the site plan be constructed within a reasonable time period as specified by the Board of Selectmen.
- 10.4.5 Action by the Board of Selectmen – The Board of Selectmen, in considering a site plan, shall ensure a USE of the site consistent with the USES permitted in the district in which the site is located and shall give due consideration to the reports received under Section 10.3.3. Prior to the granting of any special permit, the Board of Selectmen shall find that, to the degree reasonable, the site plan:
- 10.4.5.1 Is consistent with the Master Plan.
 - 10.4.5.2 Protects the neighborhood and the Town against seriously detrimental or offensive USES on the site and against adverse effects on the natural environment.
 - 10.4.5.3 Provides for convenient and safe vehicular and pedestrian movement and that the locations of driveway openings are convenient and safe in relation to vehicular and pedestrian traffic circulation, including emergency vehicles, on or adjoining the site.

- 10.4.5.4 Provides an adequate arrangement of parking and loading spaces in relation to the proposed USES of the premises.
- 10.4.5.5 Provides adequate methods of disposal of refuse or other wastes resulting from the USES permitted on the site.
- 10.4.5.6 Will not derogate from the intent of this Bylaw to limit the adverse effects of the USE and development of land on the surface and groundwater resources of the Town of Acton. If a proposed USE has obtained a special permit from the Planning Board under Section 4.3 of this Bylaw, the requirement of this Section shall be deemed to have been met.
- 10.4.5.7 Complies with all applicable requirements of this Bylaw.
- 10.4.6 When granting a Site Plan Special Permit or when approving an amendment thereto, the Board of Selectmen shall require, and in reviewing an application for a building permit, the Zoning Enforcement Officer shall require that any repair, replacement, or reconstruction of improvements to the site, including but not limited to, drainage, exterior lighting, landscaping, pedestrian and vehicular circulation or parking facilities, required or approved by the Site Plan Special Permit, shall, to the extent practicable, comply with the currently applicable standards of this Bylaw, whether or not such repair, replacement or reconstruction requires a new Site Plan Special Permit. When evaluating an application for such repair, replacement, or reconstruction of existing facilities, the Board of Selectmen or the Zoning Enforcement Officer shall consider the practicability of compliance with currently applicable standards in light of the existing site configuration, and the cost of compliance compared to the increase in public safety or convenience achieved thereby.
- 10.5 Variance** – Variances from the specific requirements of this Bylaw may be authorized by the Board of Appeals, except that variances authorizing a USE not otherwise permitted in a particular zoning district shall not be granted.
 - 10.5.1 Rules and Regulations and Fees – The Board of Appeals shall adopt, and from time to time amend, Rules and Regulations, not inconsistent with the provisions of this Bylaw or Chapter 40A of the General Laws or other applicable provision of the General Laws, and shall file a copy of said Rules and Regulations with the Town Clerk. Such Rules shall prescribe as a minimum the size, form, contents, style and number of copies of plans and specifications, the Town boards or agencies from which the Board of Appeals shall request written reports and the procedure for submission and approval of such permits. The Board of Appeals may adopt, and from time to time amend, fees sufficient to cover reasonable costs incurred by the Town in the review and administration of variances.
 - 10.5.2 Application – Any person who desires to obtain a variance from the requirements of this Bylaw shall file a written application with the Office of the Town Clerk on a form prescribed by the Board of Appeals. On the same day, the Petitioner shall submit said application, including the date and time of filing, certified by the Town Clerk, to the Board of Appeals. Each application shall be completed on a form and accompanied by the information required by the Board of Appeals.
 - 10.5.3 Reports from Town Boards or Agencies – The Board of Appeals shall transmit forthwith a copy of the application and plan(s) to other boards, departments, or committees as it may deem necessary or appropriate for their written reports.

Appendix X
City of Marlborough's Zoning Ordinance
Part 1 Administrative Legislation
Chapter 650 Zoning
Article VII Dimensional, Landscaping, and Parking Regulations
Chapter 650-48 Off-Street Parking
Section 650-48 B(4)

- (1) Approvals and permits.
 - (a) Site plan approval. No driveways, curb cuts or parking areas (whether such parking areas are required or not) shall be created, graded or constructed of any material, through expansion or otherwise, without receiving prior site plan approval.
 - (b) Permits. No permit shall be issued for the erection of a new structure, the enlargement of an existing structure or the development of a land use, unless the plans show the specific location and size of the off-street parking required to comply with the regulations set forth in this Zoning Ordinance and the means of access to such space from public streets. In the event of the enlargement of an existing structure, the regulations set forth in the Zoning Ordinance shall apply only to the area added to the existing structure.
- (2) Buildings and land uses in existence on the effective date of this chapter are not subject to these parking requirements, but any parking facilities then serving or thereafter established to serve such buildings or uses may not in the future be reduced below these requirements.
- (3) Common parking areas and mixed uses. Parking required for two or more buildings or uses may be provided in combined parking facilities where such facilities will continue to be available for the several buildings or uses and provided that the total number of spaces is not less than the sum of the spaces required for each use individually, except that said number of spaces may be reduced by up to 1/2 such sum if it can be demonstrated that the hours or days of peak parking need for the uses are so different that a lower total will provide adequately for all uses served by the facility. The following requirements shall be met:
 - (a) Evidence of reduced parking needs shall be documented and based on accepted planning and engineering practice satisfactory to the City Planner and Engineer.
 - (b) If a lower total is approved, no change in any use shall thereafter be permitted without further evidence that the parking will remain adequate in the future, and if said evidence is not satisfactory, then additional parking shall be provided before a change in use is authorized.
 - (c) Evidence of continued availability of common or shared parking areas shall be provided satisfactory to the City Solicitor and shall be documented and filed with the site plan.

- (d) The determination of how a combined or multi-use facility shall be broken down into its constituent components shall be made by the Planning Department.
 - (e) If any reduction in the total number of parking spaces is allowed as a result of this subsection, then 150 square feet of open space (per parking space reduced) shall be provided in addition to that required by lot coverage provisions of this chapter.
- (4) Temporary parking reserve. Where it can be demonstrated that a use or establishment will temporarily need a lesser number of parking spaces than is required (such as phased occupancy of large new facilities), the number of such spaces required may be reduced by not more than 50%, subject to the site plan approval, provided that the following requirements are met:
- (a) The applicant shall submit documentary evidence that the use will temporarily justify a lesser number of spaces for a period of time not less than one year.
 - (b) A reserve area shall be provided sufficient to accommodate the difference between the spaces required and the lesser number provided.
 - (c) Said reserve area shall be maintained exclusively as landscaped area and shall be clearly indicated as "Reserve Parking Area" on the site plan.
 - (d) The landscaping may either consist of existing natural vegetation or be developed as a new landscaped area, whichever is granted site plan approval.
 - (e) No structure or mechanical equipment may be placed in the reserve parking area.
 - (f) Said reserve area shall not be counted toward the minimum open space required by lot coverage provisions of this chapter.
 - (g) When in the opinion of the Building Inspector additional parking is required, said reserve area may be required to be improved as a parking lot.

COHASSET ZONING BYLAWS

2. When units of measurements that determine the number of required parking or loading spaces result in a requirement of a fractional space, a fraction over one-half shall require one parking or loading space.
3. The required parking spaces for all uses except dwellings in business district for occupancy by more than one family shall be provided either on the same premises with the parking generator, or on any premises associated therewith. The walking distance between the farthest point of the parking areas and the main pedestrian entrance to the building or use in question shall not exceed five hundred feet, except that in the case of parking space for employees only, the distance may be increased to one thousand feet. Such walking distance shall be only over land owned or controlled by the parking generator or over a public way. When the required parking spaces are not immediately adjacent to the parking generator, directional signs to the parking spaces must be posted. Such signs shall conform with Section 6.
4. Where required parking spaces are provided not adjacent to the lot on which the use or structure they are intended to serve is located, such spaces shall be in the same ownership as the property occupied by the use or structure to which the parking spaces are accessory. If both the structure and the parking area are leased, the period of time of the parking area lease shall be the same as the structure lease.
5. When loading spaces are necessary, they shall in all cases be on the same lot as the use they are intended to serve. In no case shall the required loading spaces be part of the area used to satisfy the parking requirements of this bylaw.
6. Parking spaces for one use shall not be considered as providing the required parking facilities for any other use, except as otherwise provided in any overlay district, now existing or hereinafter adopted or except as authorized by the board of appeals where it is clearly demonstrated that the need for parking occurs at different times.
(4/1/06 Article 18)
7. All parking and loading spaces required under this bylaw shall be built and must be inspected by the building inspector. No occupancy permits shall be granted until said parking and loading facilities have been approved by the building inspector.
8. Parking space shall be deemed inadequate if, when the off-street parking area is substantially full, there is frequent parking on the street near the premises in question.
9. All parking spaces and aisles shall be designed in accordance with the chart in Section 7 of this bylaw.
10. Notwithstanding anything to the contrary herein contained, in any district other than the Light Industry, Technology Business and Highway Business districts (which districts are specifically excluded from application of this Section 7.2.10), contingent upon adequate space being provided and dedicated by a recordable covenant to the exclusive use of parking, not more than thirty-three percent of the required parking space may remain undeveloped or set aside as a green area at the sole discretion of the planning board as a part of a site plan review until such time as at its sole discretion the planning board may require that all or part of the undeveloped parking area be surfaced and lined as parking spaces.
(4/8/85 Article 39; 4/1/06 Article 14; 4/1/06 Article 18)
11. In addition to all other requirements contained in the Section 7, automobile dealers engaged in the sale at retail or wholesale of new and used cars shall devote not less and twenty percent of the required parking spaces to customer parking.
(4/7/86 Article 42)

3110. General. No building or structure shall be located upon any lot and no activity shall be conducted upon any lot unless the required parking facilities are provided in accordance with this section.

3111. Change of Use. The use of any land or structure shall not be changed from a use described in one section of the Table of Parking Requirements to a use in another section of the table nor shall any floor area of a building be increased in any manner unless the number of parking spaces required for the new uses are provided.

3112. Undetermined Uses. In the case where the use of a building or buildings has not been determined at the time of application for a building permit or special permit, the parking requirements applicable to the most intensive use allowed in the zoning district where such undetermined use is to be located shall apply.

3113. Reserve parking spaces. Upon the issuance of a special permit, the Board of Selectmen may authorize a reduction in the number of parking spaces required hereunder, in accordance with the following:

- a. The decrease in the number of parking spaces is no more than 30% of the total number of spaces otherwise required hereunder.
- b. The waived parking spaces shall be set aside and shall not be intended for immediate construction. Such spaces shall be labeled as "Reserve Parking" on the site plan.
- c. Any such decrease in the number of required parking spaces shall be based upon documentation of the special nature of the use or building.
- d. The parking spaces labeled "Reserve Parking" on the site plan shall be properly designed as an integral part of the overall parking layout, located on land suitable for parking development and in no case located within area counted as buffer, parking setback or open space.
- e. The reduction in the number of required spaces will not create undue congestion or traffic hazards and that such relief may be granted without substantial detriment to the neighborhood and without derogating from the intent and purpose of this bylaw.
- f. If, at any time after the Certificate of Occupancy is issued for the building or use, the Building Inspector determines that additional parking

spaces are needed the Inspector shall notify the Board of Selectmen, in writing, of such finding and the Board of Selectmen may require that all or any portion of the spaces shown on the approved site plan as "Reserve Parking" be constructed within a reasonable period.

3114. Handicapped Parking. Parking facilities shall provide specifically designated parking spaces for the physically handicapped in accordance with the latest edition of 521 CMR 1.00, et seq., the Rules and Regulations of the Architectural Access Board.

3120. Number of Parking Spaces. Uses listed in the following table shall have parking as set forth therein.

3121. Comparable Use Requirement. Where a use is not specifically included in the Table of Parking Requirements, it is intended that the regulations for the most nearly comparable use specified shall apply.

3122. Mixed Use Requirement. In the case of mixed uses, the requirements shall be the sum of the requirement calculated separately for each area of use, so that adequate space shall be provided to accommodate the cars of all persons on the premises at any one time. Parking spaces for one use shall not be considered as providing the required spaces for any other use, except when it can be clearly demonstrated that the need for parking occurs at different times and will continue to do so in the future.

TABLE OF PARKING REQUIREMENTS (Next page)

Appendix AA

Town of Dennis' Zoning Bylaws

Section 3 General Regulations

Section 3.1 Off-Street Parking and Loading Requirements

Section 3.1.7.4

3.1.7.4 In certain cases the Planning Board may allow the applicant to delineate a number of parking spaces as a reserve area that is available to be constructed in the future as specified by the Planning Board. It is the responsibility of the applicant to provide documentation showing that the proposed use of the property does not require the number of spaces listed under Section 3.1.3. Plans shall incorporate and detail all design aspects of the reserve parking area.

As it is the intent of this special delineation to preserve as much of the site's natural state as possible, the proposed reserve area shall be dedicated for parking only. In any case in which the Board permits an applicant to create a reserve parking area, in lieu of development of the required parking area, then the Board shall require, as a condition of approval, that the resulting site plan special permit shall be reviewed on a periodic basis in order to monitor the adequacy of the constructed parking and the need to construct all or a portion of the reserve area. After such review, if appropriate, the Board may require that all or a portion of the reserve area be actually constructed.

Appendix BB

Town of Acton's Zoning Bylaw

Chapter 6 Parking Standards

Section 6.9 Special Provisions for the Village, Kelley's Corner and Powder Mill Districts

6.9 Special Provisions for Parking in the Village, Kelley's Corner, and Powder Mill Districts

6.9.1 In the EAV District, except as otherwise provided herein, no BUILDING or STRUCTURE shall be located on any LOT and no activity shall be conducted upon any LOT unless off-STREET parking is provided in accordance with the following requirements:

6.9.1.1 No off-STREET parking spaces shall be established between the front line of the principal BUILDING and the sideline of a STREET, except as may be provided otherwise in the Design Provisions for the East Acton Village District.

6.9.1.2 Required off-STREET parking for a USE may be provided on any LOT within the same Zoning District as the USE, but not necessarily on the same LOT as the USE.

6.9.1.3 Connection of Parking – A Special Permit Granting Authority shall require that all parking lots be connected by a common driveway to the parking lots of all adjacent USES and to all adjacent land in the EAV and EAV-2 Districts, unless it finds that physical constraints, present site configuration, uncooperative abutters, or land vacancy precludes strict compliance. In such cases, the site and the parking lot shall be designed to provide for the future construction of common driveways. For the purposes of this section, common driveway shall be defined as a driveway that is shared by two or more LOTS and located at least partially within the required setback areas of such LOTS. Such a common driveway can be either a shared ACCESS driveway to a STREET, or a driveway to a STREET, or a driveway connecting such LOTS with each other.

6.9.1.4 Number of Parking Spaces – The minimum number of required parking spaces shall be 70% of the requirements in Section 6.3.1. In the case of collective use of a parking lot in accordance with Section 6.9.1.5 below, the minimum number of required parking spaces shall be 50% of the requirements in Section 6.3.1.

6.9.1.5 Collective Use of Parking Lots – Off-STREET parking lots may serve, collectively or jointly, different USES located throughout the EAV District where such a collective use of the parking lot is based on a written agreement that: 1) assures the continued collective use; 2) states the number of parking spaces allocated to each participating USE; and 3) assures ACCESS to and maintenance of the common parking lot. The parking spaces provided through the collective use of parking lots shall be counted towards the minimum required number of spaces for the participating USES applying the discount as set forth in Section 6.9.1.4 above.

6.9.1.6 Structured parking shall not be allowed except under ground.

6.9.1.7 The parking lot design requirements of Section 6.7 shall apply in the EAV District, except that:

a) The requirements for parking lot cells and separation of cells (Section 6.7.1) shall not apply.

b) The requirements for set-backs (Section 6.7.2) shall not apply. This does not waive the requirements for perimeter landscaping (Section 6.7.6).

- c) The interior area landscaping (Section 6.7.7) may be substituted with one or more consolidated bioretention areas with minimum side dimensions measuring at least 38 X 12 feet each. Bioretention areas shall be designed and landscaped to trap and mitigate runoff from paved surfaces consistent with the description and intent of EPA Storm Water Technology Fact Sheet – Bioretention (EPA 832-F-99-012, September 1999), or equivalent. The landscaping requirements of Sections 6.7.8.1 through 6.7.8.5 shall not apply to bioretention areas. Bioretention areas may be sited anywhere in the parking lot that is convenient to manage parking lot traffic and facilitate pedestrian use, including adjacent to and connecting with vegetated areas on the perimeter of a parking lot. Bioretention areas shall be considered part of the minimum required OPEN SPACE.
- 6.9.2 In the NAV District, the following special provisions for parking shall apply:
- 6.9.2.1 No off-STREET parking spaces shall be established between the front line of the principal BUILDING and the sideline of a STREET.
 - 6.9.2.2 The Board of Selectmen may authorize by Special Permit an off-STREET parking lot or STRUCTURE not located upon the same LOT with the associated USE, provided said parking lot or STRUCTURE lies also within the NAV District.
 - 6.9.2.3 The number of parking spaces to be provided for a mixed-USE development in the North Acton Village District shall be equal to 85 percent of the sum of the number of parking spaces for each USE on the LOT, determined separately for each USE based upon the standards set forth in Section 6.3.1
 - 6.9.2.4 Except as stated in Sections 6.9.2.1 through 6.9.2.3, the parking lot design requirements of Section 6.7 shall apply in the NAV District.
- 6.9.3 In the EAV-2 District, the following special provisions for parking shall apply:
- a) Connection of Parking – A Special Permit Granting Authority shall require that all parking facilities be connected by a common driveway to the parking facilities of all adjacent USES and to all adjacent land in the EAV, EAV-2, and LB zoning districts, unless it finds that physical constraints, present site configuration, uncooperative abutters, or land vacancy precludes strict compliance. In such cases, the site and the parking facility shall be designed to provide for the future construction of common driveways. For the purposes of this Section, common driveway shall be defined as a driveway that is shared by two or more LOTS and located at least partially within the required setback areas of such LOTS. Such a common driveway can be either a shared ACCESS driveway to a STREET, or a driveway to a STREET, or a driveway connecting such LOTS with each other.
 - b) Collective Use of Parking Facilities – Off-STREET parking facilities may serve, collectively or jointly, different USES located throughout the same zoning district where such a collective use of the parking facility is based on a written agreement that: 1) assures the continued collective use; 2) states the number of parking spaces allocated to each participating USE; and 3) assures ACCESS to and maintenance of the common parking facility. In the case of such collective use of a parking facility, the minimum number of required parking spaces shall be 70% of the requirements in Section 6.3.1.
 - c) Otherwise, the parking lot design requirements of Section 6.7 shall apply in the EAV-2 District.
- 6.9.4 WAV and SAV Districts – In the WAV and SAV Districts, except as otherwise provided herein, no BUILDING or STRUCTURE shall be located on any LOT and no activity shall

be conducted upon any LOT unless off-STREET parking is provided in accordance with the following requirements:

- 6.9.4.1 Required off-STREET parking for a USE may be provided on any LOT within the same Zoning District as the USE, but not necessarily on the same LOT as the USE.
- 6.9.4.2 No off-STREET parking spaces shall be established between the front line of the principal BUILDING and the sideline of a STREET, except on LOTS having frontage on more than one STREET. On LOTS having FRONTAGE on more than one STREET, the main BUILDING entrance shall face a STREET and parking spaces shall be located on the opposite side of the main BUILDING entrance.
- 6.9.4.3 Connection of Parking – A Special Permit Granting Authority shall require that all parking facilities be connected by a common driveway to the parking facilities of all adjacent USES and to all adjacent land in the same Zoning District, unless it finds that physical constraints, present site configuration, uncooperative abutters, or land vacancy precludes strict compliance. In such cases, the site and the parking facility shall be designed to provide for the future construction of common driveways. For the purposes of this section, common driveway shall be defined as a driveway that is shared by two or more LOTS and located at least partially within the required setback areas of such LOTS. Such a common driveway can be either a shared ACCESS driveway to a STREET or a driveway to a STREET or a driveway connecting such LOTS with each other.
- 6.9.4.4 Number of Parking Spaces – The minimum number of required parking spaces shall be 70% of the requirements in Section 6.3.1. In the case of collective use of a parking facility in accordance with Section 6.9.4.5, the minimum number of required parking spaces shall be 50% of the requirements in Section 6.3.1.
- 6.9.4.5 Collective Use of Parking Facilities – Off-STREET parking facilities may serve, collectively or jointly, different USES located throughout the same Zoning District where such a collective use of the parking facility is based on a written agreement that: 1) assures the continued collective use; 2) states the number of parking spaces allocated to each participating USE; and 3) assures ACCESS to and maintenance of the common parking facility. The parking spaces provided through the collective use of parking facilities shall be counted towards the minimum required number of spaces for the participating USES applying the discount as set forth in Section 6.9.4.4.
- 6.9.4.6 Design Requirements – The parking lot design requirements of Section 6.7 shall not apply in the WAV and SAV Districts. Off-STREET parking spaces, except parking spaces serving a single to four-FAMILY residential USE or an Assisted Living Residence with 10 or less residents, shall be either contained within a BUILDING or STRUCTURE or subject to the following requirements.
 - a) Required parking spaces, ACCESS driveways, and interior driveways shall be provided and maintained with suitable grading, paved surfaces, adequate drainage, and landscaping as required in Section 6.9.4.7.
 - b) ACCESS Driveways – Not more than one ACCESS driveway for two-way traffic from a STREET to a parking facility shall be permitted. An additional ACCESS driveway from a STREET may be permitted provided that the ACCESS driveways are limited to one-way traffic. However, there shall not be more than two (2) ACCESS driveways for one-way traffic for any parking facility. ACCESS, interior and common driveways for two-way traffic shall be twenty feet (20') wide. The ACCESS, interior and common driveways for one-way traffic shall be fourteen (14) feet wide.

- c) Set-Backs – Except where parking lots established in accordance with Section 6.9.4.5 cross over common LOT lines, all parking spaces and paved surfaces other than ACCESS driveways or common driveways shall be set back a minimum of five (5) feet from any LOT lines.
- 6.9.4.7 Landscaping of Parking Lots – Parking lots shall include a landscape area equal to a minimum of five percent (5%) of the area of the parking lot.
- a) Shade trees – One shade tree shall be provided for each two thousand (2,000) square feet or less of pavement area. Each shade tree shall be from a deciduous species rated for U.S.D.A. Hardiness Zone 5 that is expected to reach at least 20 feet in height at maturity; be seven (7) feet in height with a trunk caliper size of at least 3/4 inches at the time of planting; and be surrounded by a landscaped area of one hundred square feet (100 sq. ft.) to accommodate the root system of the tree. Additional landscaping may be required by a Special Permit Granting Authority to better screen the parking lot from the STREET and adjacent USES.
 - b) Perimeter Planting Strip – Parking lots adjacent to STREETS, sidewalks, paths or ACCESS driveways shall include a perimeter planting strip at least seven and one-half (7.5) feet wide. However, if the planting strip is protected from vehicular damage through the use of planting beds that are raised above the surface of the parking lot at least twelve (12) inches or through the use of bollards or balustrades, the width of the planting strip may be reduced to five (5) feet. Said planting strip shall feature a physical separation of the parking lot and adjacent ways of at least two and one-half (2.5) feet in height. This physical separation may be created through the use of plantings, walls, or fencing (other than chain link or smooth concrete) or a combination of plantings and fencing. No more than twenty percent (20%) of this perimeter planting strip shall be impervious.
 - c) Plantings – Plantings for landscaped areas shall include a mixture of flowering and decorative deciduous and evergreen trees and shrubs and shall be planted with suitable ground cover.
 - d) Sight Distance – All landscaping along any STREET FRONTAGE shall be placed and maintained so that it will not obstruct sight distance.
 - e) Protection of Landscaped Areas – Landscaped areas shall be planted and protected in such a manner that the plantings will not be damaged by vehicles.
- 6.9.5 KC District – In the Kelley’s Corner District, no BUILDING or STRUCTURE shall be located on a LOT and no activity shall be conducted upon any LOT unless off-STREET parking is provided in accordance with the following requirements:
- 6.9.5.1 Required off-STREET parking for a USE may be provided on any LOT within the Kelley’s Corner District, but not necessarily on the same LOT as the USE.
 - 6.9.5.2 Connection of Parking – A Site Plan Special Permit Granting Authority shall require that all parking facilities be connected by a common driveway to the parking facilities of all adjacent USES and to all adjacent LOTS within the Kelley’s Corner District, unless it finds that physical constraints, present site configuration, uncooperative abutters, or land vacancy precludes strict compliance. In such cases, the site and the parking facility shall be designed to provide for the future construction of common driveways. For the purposes of this section, common driveway shall be defined as a driveway that is shared by two or more LOTS and located at least partially within the required setback areas of such LOTS. Such a common driveway can be either a shared ACCESS driveway to a STREET or a driveway to a STREET leading to another LOT or a driveway connecting such LOTS with each other. See also Section 10.4.3.3 of this Bylaw regarding common driveways.

- 6.9.5.3 Number of Parking Spaces – The minimum number of required parking spaces shall be 70% of the requirements in Section 6.3.1. In the case of collective use of a parking facility in accordance with Section 6.9.5.4, the minimum number of required parking spaces shall be 50% of the requirements in Section 6.3.1.
- 6.9.5.4 Collective Use of Parking Facilities – Off-STREET parking facilities may serve, collectively or jointly, different USES located throughout the Kelley’s Corner District where such a collective use of the parking facility is based on a written agreement that: 1) assures the continued collective use; 2) states the number of parking spaces allocated to each participating USE; 3) assures ACCESS to and maintenance of the common parking facility, and 4) is filed with the Zoning Enforcement Officer. Any change to such agreement shall also be filed with the Zoning Enforcement Officer. The number of parking spaces allocated in the agreement to each participating USE shall be counted toward the minimum required number of parking spaces for such USE as determined under Section 6.9.5.3.
- 6.9.5.5 Design Requirements and Landscaping – Off-STREET parking spaces, except spaces serving a single to four-FAMILY residential USE or an Assisted Living Residence with 10 or less residents, shall either be contained within a BUILDING or STRUCTURE, or be provided in accordance with the design requirements of section 6.7 including all its subsections. In addition, no parking space or other paved surface, other than walkways and bikeways, shall be located within 20 feet of an abutting residential zoning district.
- 6.9.6 PM District – In the Powder Mill District, no BUILDING or STRUCTURE shall be located on a LOT and no activity shall be conducted upon any LOT unless off-STREET parking is provided in accordance with the following requirements:
- 6.9.6.1 Required off-STREET parking for a USE may be provided on any LOT within the Powder Mill District, but not necessarily on the same LOT as the USE.
- 6.9.6.2 Connection of Parking – A Site Plan Special Permit Granting Authority shall require that all parking facilities be connected by a common driveway to the parking facilities of all adjacent USES and to all adjacent LOTS within the Powder Mill District, unless it finds that physical constraints, present site configuration, uncooperative abutters, or land vacancy precludes strict compliance. In such cases, the site and the parking facility shall be designed to provide for the future construction of common driveways. For the purposes of this section, common driveway shall be defined as a driveway that is shared by two or more LOTS and located at least partially within the required setback areas of such LOTS. Such a common driveway can be either a shared ACCESS driveway to a STREET or a driveway to a STREET leading to another LOT or a driveway connecting such LOTS with each other. See also Section 10.4.3.3 of this Bylaw regarding common driveways.
- 6.9.6.3 Number of Parking Spaces – The minimum number of required parking spaces shall be 70% of the requirements in Section 6.3.1. In the case of collective use of a parking facility in accordance with Section 6.9.6.4, the minimum number of required parking spaces shall be 50% of the requirements in Section 6.3.1.
- 6.9.6.4 Collective Use of Parking Facilities – Off-STREET parking facilities may serve, collectively or jointly, different USES on LOTS located throughout the Powder Mill District where such a collective use of the parking facility is based on a written agreement that: 1) assures the continued collective use; 2) states the number of parking spaces allocated to each participating USE; 3) assures ACCESS to and maintenance of the common parking facility, and 4) is filed with the Zoning Enforcement Officer. Any change to such agreement shall also be filed with the Zoning Enforcement Officer. The number of parking spaces allocated in the agreement to each participating USE shall be

counted toward the minimum required number of parking spaces for such USE as determined under Section 6.9.6.3.

6.9.6.5 Design Requirements and Landscaping – Off-STREET parking spaces, except spaces serving a single to four-FAMILY residential USE, shall either be contained within a BUILDING or STRUCTURE, or be provided in accordance with the design requirements of Section 6.7 including all its subsections. In addition, no parking space or other paved surface, other than walkways and bikeways, shall be located within 20 feet of an abutting residential zoning district.

6.10 Parking Lot Bonds and Securities – The Special Permit Granting Authority (if the parking area is related to a permitted USE for which a site plan or other special permit is required) or the Zoning Enforcement Officer (for other parking areas) or their designee may require a bond or other form of security to ensure the satisfactory planting of required landscaping and to ensure the survival of such landscaping for up to two (2) years following such planting. All required landscaping and plantings must be maintained in a neat, attractive appearance as a condition of the continued PRINCIPAL USE of the LOT.

Appendix CC
City of Beverly
Chapter 29
Section 29-25 Parking and Loading Requirements

Wholesale and storage in enclosed buildings	1 space per 1,000 sq. ft. of gross floor area for the first 20,000 sq. ft.; 1 space for each 2,000 sq. ft. of gross floor area for the second 20,000 sq. ft.; 1 space for each 4,000 sq. ft. of gross floor area for areas in excess of the initial 40,000 sq. ft. of gross floor area
Open storage	1 space for every 1,000 sq. ft. of the lot devoted to the use thereon
Manufacturing, Assembly, Processing, Research, Printing, and publishing	2.5 spaces per 1,000 sq. ft. of gross floor area (Ord. No. 169, 8-27-96)
Congregate Housing for the Elderly and Permanently disabled, including subsidized elderly housing facilities that provide shared living arrangements	.75 space per unit (Ord. No. 169, 8-27-96)
Marina	.5 space per boat moored, docked, stored, or trailered. Between September 15 th and May 15 th , up to 80% of the required parking spaces may be used for winter storage of boats, floats, runways, and associated equipment. On or before May 16 th , 70 percent of the required parking spaces must be clear and available for motor vehicle parking. By June 15 th , 100 percent of the required parking spaces must be clear and available for motor vehicle parking.

(Rev. 7-10-89 & 3-19-91) (Ord. No. 169, 8-27-96; Ord. No. 207, 11-6-08; Ord. No. 72, 7-9-09)

B Off-street Loading Requirements

Off-street loading requirements for commercial and industrial uses, if established or expanded by more than 25 percent under this Ordinance, shall be required to provide adequate off-street loading space for loading and unloading all vehicles incidental to the operation of the establishment. The Building Inspector, on recommendation from the Planning Board, may waive all or a portion of the requirements for loading or may require additional space if the particular use so warrants.

C General Provisions

1. Required off-street parking spaces may be provided on the same lot with the principal use, or on a contiguous lot, or may be provided on a nearby lot and entrance to the use it serves shall not exceed 500 feet.
2. In the case of two or more uses on one lot, the requirement for the number of parking or loading spaces shall be the sum of the requirements for the various uses computed separately. The parking or loading spaces for one use shall not be considered as providing

the required parking or loading spaces for any other use. Required loading space is not to be included as parking space in providing required parking spaces.

3. Where a principal use of a lot is not enclosed in a building, the portion of the lot so used shall be considered as the gross floor area for calculating off-street parking space requirements.
4. No accessory off-street parking space shall be permitted within the required front yard in any "R" District, except that this shall not be construed as applying to parking required for a one or two-family dwelling.
5. No employee parking shall be permitted within the required front yard in any "IR" District. No parking in any "IR" District shall be permitted less than 15 feet from any lot line.
6. Commercial or industrial vehicles with more than two axles not related to a home occupation or home professional office as defined in Section 29-2.B.32. shall not be allowed to be parked or stored on a permanent basis without a Special Permit in a Residential District.
7. "Piggy-back" parking, in which each space does not have independent access to a driveway or street, is not allowed, except when such spaces are permanently assigned to the same residential unit and except for one and two family homes. (Rev. 6-26-87)
8. For bed and breakfast establishments, all parking shall be off-street, not within the required front yard setback and "piggy back" parking shall not be allowed except for those spaces assigned to the permanent resident(s) of the structure. All other requirements of the City's parking requirements will apply as well (size of spaces, surfacing materials, etc.). (Rev. 3-19-91)

D Parking, Loading Space and Design Specifications

All parking or loading areas containing over three (3) spaces including automobile service and drive-in establishments shall be either contained within buildings or other structures, or be subject to the following, as well as all specifications of the City of Beverly:

1. Parking or loading spaces shall be effectively screened on each side of the parking area which adjoins or faces the side or rear lot line of premises situated in any "R" District. The screening shall be accomplished using one of the following methods:

Appendix DD

City of Cambridge's Zoning Ordinance

Article 6 Off-Street Parking and Loading Requirements and

Nighttime Curfew on Large Commercial through Trucks

Section 6.40 Design and Maintenance of Off Street Parking Facilities

Section 6.44.1(c)

ten (10) feet.

ten (10) feet.
fifty five (25) feet to a street

intersection or within fifteen (15) feet of a crosswalk.

- (c) The grade and design of any driveway providing access to an off street parking facility shall permit a clear view, to the driver of any car exiting from the facility, of traffic on the street and of pedestrians.

6.43.5 The Board of Zoning Appeal may grant a special permit modifying the provisions of this subsections 6.43 in accordance with the following conditions:

- (a) The provisions for layout of parking spaces in paragraph 6.43.2 may be modified where there is a valet parking arrangement for an off street parking facility.
- (b) The maximum curb cut width specified in paragraphs 6.43.3 (a) and 6.43.3 (b) may be modified if the Board determines that an increased curb cut width would facilitate traffic and safety.
- (c) The maximum of one curb cut for every one hundred (100) feet of street frontage as required in paragraph 6.43.3 (c) may be modified if the Board determines that traffic and safety would be facilitated by exceeding this maximum.
- (d) The distance of driveways from street corners or crosswalks as required in paragraphs 6.43.4 (b) may be modified if the Board determines that an alternate arrangement would better facilitate traffic and safety.

6.43.6 The Board of Zoning Appeal may grant a special permit authorizing owners of adjacent properties to establish common driveways under mutual easements but such special permit shall not become effective until an appropriate easement has been duly recorded at the Middlesex County Registry of Deeds.

6.44 *Layout of Off Street Parking Facilities.* Any parking facility located within a structure, unless it is completely underground, must conform to the yard requirements for the zoning district in which it is located. On grade, open parking spaces may be located in required yards only as provided in this Subsection 6.44.

6.44.1 Setbacks for on grade open parking facilities shall be provided as follows:

- (a) No on grade open parking space shall be located within ten (10) feet of that portion of a building wall containing windows of habitable or occupiable rooms at basement or first story. However, on grade open parking spaces serving one, two, or three family dwellings may be located within five (5) feet of that portion of such building wall.
 - (b) Except for one, two, or three family dwellings existing at the time of the effective date of this Ordinance or amendment thereto, no on grade open parking space or driveway shall be located within five (5) feet of any side or rear property line.
 - (c) No on grade open parking space shall be located within a required front yard setback.
 - (d) The area between the required parking setback line and the building or lot line shall be landscaped and maintained in accordance with the requirements of Subsection 6.48.
-

Appendix EE

Town of Bedford’s Zoning Bylaws

Section 17. North Road Mixed Use Overlay District

Section 17.5 Performance Standards

Section 17.5.11 Vehicle Parking

and vehicle access to existing or future developments on abutting properties in order to facilitate pedestrian access and to minimize curb cuts.

ORD ZONING BYLAWS
Annual Town Meeting of 2014

the Board may reduce parking requirements based upon the shared parking agreement.

Reduction in spaces for managing transportation demand

The Board may allow a reduced number of parking spaces, to a minimum of 1 space per unit for units with 2 bedrooms or less, if the plan includes measures to limit transportation or parking demand. Such efforts may include, but are not limited to a deeded commitment to participate in a Transportation Management Association (TMA), use of vehicles owned by the property management and parked within the site, or a discount for use of a rental car (such as ‘Zip Car’) located within 500’ walking distance of the site.

17.5.11 Vehicle Parking

Adequate off-street parking shall be provided. In determining adequacy, the Board shall consider the extent to which the design maximizes pedestrian flow within the development, maximizes the efficient use of existing and proposed parking facilities, and minimizes the area of land to be paved for parking.

To maintain a pedestrian-friendly environment, motor vehicle parking spaces shall be located behind or beside buildings wherever possible. Motor vehicle parking shall not be located directly between the building and the street alignment.

Parking for non-residential uses shall be as in 7.4.1. Parking for residential uses shall be 1.5 spaces per unit or 1 space per unit for Housing for the Elderly except as provided below.

Shared Motor Vehicle Parking

Shared use of motor vehicle parking is strongly encouraged; however, parking spaces for one use shall not be considered as providing the required spaces for any other use, except when it can be clearly demonstrated that the need for parking occurs at different times. A shared parking agreement may be submitted to the Board as part of any Special Permit request. Said shared parking agreement shall address issues such as the maintenance, striping, and snow plowing of the shared parking area. At its discretion,

17.5.12 Off Site Motor Vehicle Parking

Off site motor vehicle parking for any use may be considered by the Board if located within 500’ walking distance of the subject site boundary, provided that this walking distance does not require pedestrians to cross Routes 4 or 225. The owner of the property containing the proposed off-site parking shall submit a legally binding agreement to the Board.

17.5.13 Parking Facilities

Structured parking is only allowed beneath proposed structures and shall not be visible from the street.

Surface parking lots shall be appropriately landscaped and designed to promote pedestrian flow within and between sites.

18.5.11 Vehicle Parking

Adequate off-street parking shall be provided. In determining adequacy, the Board shall consider the extent to which the design maximizes pedestrian flow within the development, maximizes the efficient use of existing and proposed parking facilities, and minimizes the area of land to be paved for parking.

To maintain a pedestrian-friendly environment, motor vehicle parking spaces shall be located behind or beside buildings wherever possible. Motor vehicle parking shall not be located directly between the building and the street alignment.

Parking for non-residential uses shall be as in 7.4.1. Parking for residential uses shall be 1.5 spaces per unit or 1 space per unit for Housing for the Elderly except as provided below.

Shared Motor Vehicle Parking

Shared use of motor vehicle parking is strongly encouraged; however, parking spaces for one use shall not be considered as providing the required spaces for any other use, except when it can be clearly demonstrated that the need for parking occurs at different times. A shared parking agreement may be submitted to the Board as part of any Special Permit request. Said shared parking agreement shall address issues such as the maintenance, striping, and snow plowing of the shared parking area. At its discretion, the Board may reduce parking requirements based upon the shared parking agreement.

Reduction in spaces for managing transportation demand

The Board may allow a reduced number of parking spaces, to a minimum of 1 space per unit for units with 2 bedrooms or less, if the plan includes measures to limit transportation or parking demand. Such efforts may include, but are not limited to a deeded commitment to participate in a Transportation Management Association (TMA), use of vehicles owned by the property management and parked within the site, or a discount for use of a rental car (such as 'Zip Car') located within 500' walking distance of the site.

18.5.12 Off-Site Motor Vehicle Parking

Off-site motor vehicle parking for any use may be considered by the Board if located within 500' walking distance of the subject site boundary. The owner of the property containing the proposed off-site parking shall submit a legally binding agreement to the Board.

18.5.13 Parking Facilities

Structured parking is only allowed beneath proposed structures and shall not be visible from the street.

Surface parking lots shall be appropriately landscaped and designed to promote pedestrian flow within and between sites.

18.5.14 Bicycle Parking

Long-term bicycle parking shall be provided for all new developments in the Depot Area Overlay District. Long-term parking shall be at least 50% sheltered from the elements.

- b) The height limit does not apply to necessary appurtenances usually carried above roof not used for human occupancy pursuant to the current Millis zoning by-law (Section VI, Table 3 – Height and Bulk Regulations).

4.10 Open Space & Landscaping

- a) A minimum of fifteen percent of the site shall remain as open space, designed and intended for appropriate public use. Open space areas shall remain open in perpetuity. In order to be included in the required open space calculation, the open space shall be usable, unobstructed space that is not used for vehicle parking, vehicle circulation, loading spaces, or pedestrian pathways or landscaping within vehicle parking lots. The required open space area shall not include areas within “Zone I” of the Millis Groundwater Protection East Overlay District; nor streams, wetlands, ponds, rivers, certified vernal pools, or other resource areas, or their associated buffer zones as identified under M.G.L. Ch. 131 or the regulations thereunder.
- b) Developments shall be made pedestrian-friendly by use of amenities such as wide sidewalks/pathways, outdoor seating, patios or courtyards, and/or appropriate landscaping. All structures, parking, pathways and other pedestrian amenities shall be designed to maximize ease of pedestrian access.
- c) All developments, other than the re-use of space in existence on the date this by-law becomes effective, shall be landscaped with appropriate low-water vegetation.
- d) Landscaping and screening plant materials within the East Overlay District shall not encroach on the public walkways or roadways in a way that impedes pedestrian or vehicular traffic or blocks views of signs within the roadway alignment.

4.11 Vehicle Parking and Loading

- a) Adequate off-street parking shall be provided and maintained in connection with all development pursuant to this by-law. In determining adequacy, the Planning Board shall consider the extent to which the design maximizes pedestrian flow within the development, maximizes pedestrian safety, maximizes the efficient use of existing and proposed parking facilities, and minimizes the area of land to be paved for parking.
- b) To maintain a pedestrian-friendly environment, motor vehicle parking spaces shall be located behind or beside buildings wherever possible. Motor vehicle parking shall not be located directly between the building and the street alignment.
- c) The number of off-street parking spaces required in the East Overlay District shall be as per the Table of Parking Space Requirements.

Appendix EE

Town of Stoughton’s Zoning Bylaw

Required Submittals for Appeals and Special Permits

Stoughton Center Mixed-Use Overlay District Zoning Bylaw

Section 7.0 Vehicular Access, Parking and Loading Requirements

Section 7.2 Vehicle Parking

encourage off-site pedestrian and abutting properties in order to curb cuts in the SCMUOD.

[7.2] Vehicle Parking

a) Adequate off-street parking shall be provided and maintained in connection with all development pursuant to the SCMUOD by-law. In determining adequacy, the SPGA shall consider the extent to which the design maximizes pedestrian flow within the development, maximizes the efficient use of existing and proposed parking facilities, and minimizes the area of land to be paved for parking.

b) To maintain a pedestrian-friendly environment, motor vehicle parking spaces shall be located behind or beside buildings wherever possible. Motor vehicle parking shall not be located directly between the building and the street alignment.

c) The number of off-street parking spaces required in the SCMUOD shall be as per the SCMUOD Table of Parking Space Requirements.

SCMUOD Table of Parking Space Requirements

<u>Use</u>	<u>Parking</u>
Permitted commercial uses (including Retail, Offices, and Restaurants)	As per the Table of Off-Street Parking Regulations in the current Stoughton zoning by-law
Residential uses: Studio units and one bedroom dwelling units	1 space per unit, plus 1 space per 10 units or part thereof for guest parking
Dwelling units with 2 or more bedrooms	1.5 spaces per dwelling unit plus 1 space per 10 units or part thereof for guest parking

d) Where the calculation of the number of required parking spaces results in the requirement of a fractional space, any fraction over one-half shall require one space.

d) Off-street loading shall be provided in accordance with the Off-Street Loading Standards in the current Stoughton zoning by-law.

[7.3] Bicycle Parking

a) Long-term bicycle parking shall be provided for all new developments in the SCMUOD. Long-term parking shall be at least 50% sheltered from the elements.

b) Bicycle parking or storage spaces are to be located as close as possible to the building entrance(s). Bicycle parking location and design shall be in accordance with relevant provisions in the Stoughton Center Design Guidelines.

c) At least 1 long-term bicycle parking or storage space shall be created for every 1 residential unit created.

Appendix FF
Town of Bedford's Zoning Bylaws
Section 7 Special Provisions
Section 7.4 Parking Regulations
Section 7.4.1 Required Spaces

proposed and a strip 150 feet wide surrounding said area, showing all man-made features, lot lines, zoning boundaries, vegetative cover, soil characteristics and existing topography;

(b) A plan of the area showing the finished grade and treatment of the site after the proposed completion of the excavation;

(c) An analysis and evaluation of the impact of the proposed earth removal on existing site features, particularly groundwater elevation, as determined between December first and April thirtieth, the groundwater significance and any existing surface water, wetlands and vegetative cover;

(d) The estimated quantity of materials to be removed and topsoil to be stripped and replaced, together with a detailed statement of the hours and days of operation, the trucking route and type of vehicle to be used on any street for the removal of earth, the treatment of the site during operations to reduce dust and mud and, where appropriate, the proposed form of bond; and

(e) Such additional information as the Board may determine.

7.3.4.2 Limitations

If a Special Permit is granted, the Board shall impose limitations on the time and the extent of the permitted removal and such other appropriate conditions, limitations and safeguards as the Board deems necessary for the protection of the neighborhood and of the public health, safety, convenience and welfare of the Town and may condition the continuance of the permit upon compliance with regulations of the Board then in force or thereafter adopted. The Board may require sufficient security, including necessary covenants, to insure compliance with the terms, conditions and limitations of the earth removal permit.

7.4 Parking Regulations

7.4.1 Required Spaces

The purpose of these parking regulations is as follows:

To prevent the creation of unnecessary or surplus amounts of parking spaces which contribute to additional Single-Occupancy Vehicle (SOV) trips being generated, thereby exacerbating traffic congestion and traffic service level deterioration on impacted roadways within the Town;

To encourage and ensure use of Transportation Management strategies; and to encourage the development of a regional Transportation Management Association (TMA) to help reduce new SOV trips from being generated within the Town;

To encourage the use of bicycles to reduce traffic congestion and to release motor vehicle parking places by providing secure bicycle parking facilities;

To encourage and ensure use of Public Transportation opportunities and use of High Occupancy Vehicles (HOV) such as buses, carpools and vanpools, associated with new development within the Town; and

To reduce unnecessary amounts of impervious surface areas from being created within the Town, and particularly within the well-head and aquifer recharge areas around public water supplies.

Permanent offstreet parking facilities and adequate loading areas shall be provided on the same lot for each of the following uses and structures described in the following subsections 7.4.1.1 through 7.4.1.11 in accordance with the requirements of the applicable subsection. Whenever a change in the type or extent of use of any premises would require an increase of more than 20% in the number of required parking spaces by application of the following subsections, off street parking spaces shall be provided in accordance with said subsections. Where a use is not specifically included in the schedule below, it is intended that the regulations for the most nearly comparable use specified shall apply.

TOWN OF BEDFORD ZONING BYLAWS
as amended through Annual Town Meeting of 2014

The Planning Board may grant a Special Permit to increase the maximum parking spaces and ratios specified below provided that all of the following findings and conditions are met:

(a) The applicant, site operator or owner agrees to reduce 20% of the estimated Institute of Transportation Engineers (ITE) trip generation rates related to the subject development or use in both the AM and PM peak hours, based upon the latest edition of "ITE Trip Generation" manual. The method or methods by which such a reduction or reductions are accomplished shall be satisfactory to the Planning Board. The Planning Board may elect to determine compliance with this condition by monitoring traffic movements at the site after project completion and occupancy. The applicant, site operator or owner shall fund this monitoring program.

(b) The applicant has developed and submitted data and evidence, including but not limited to parking accumulation and utilization data, that demonstrate the need for additional parking spaces to be created, in the opinion of the Planning Board.

7.4.1.1 Dwelling including multiunit structure

Two parking spaces for each dwelling unit.

7.4.1.2 Housing for elderly

One parking space for each dwelling unit.

7.4.1.3 Hotel, motel or lodging house

One parking space for each bedroom plus such additional spaces as shall be required for the number of employees' vehicles which can be reasonably expected at any one time on the premises.

7.4.1.4 Educational

One parking space for each classroom plus one space for each two staff positions and one space for each five persons of rated capacity of the largest place of assembly plus such additional spaces as shall be required for the number of students' vehicles which can be reasonably expected at any one time on the premises.

7.4.1.5 Nursing home

One parking space for each sleeping room for single or double occupancy or, where not divided into

such rooms, one parking space for each two beds plus such additional spaces as shall be required for the number of employees' vehicles which can be reasonably expected at any one time on the premises.

7.4.1.6 Retail, service or business use as defined in Sections 4.5.1, 4.5.3, 4.5.4, 4.5.5 and 4.5.13

Four parking space for each 1000 square feet of gross floor area, excluding permanent storage areas, staircases, corridors and restrooms.

7.4.1.7 Professional, general office, or research facility

A minimum of 2.5 parking spaces for each 1000 square feet of gross floor area. A maximum of 2.86 parking spaces for each 1000 square feet of gross floor area if the building or the property under common ownership has 10,000 square feet or more of gross floor area. Gross floor area does not include permanent storage areas, staircases, corridors and restrooms. Preferential carpool and vanpool parking shall be provided to encourage the use of carpooling and vanpooling.

7.4.1.8 Industrial use

A minimum of two parking spaces for each 1000 square feet of gross floor area. A maximum of 2.5 parking spaces for each 1000 feet of gross floor area if the building or the property under common ownership has 10,000 square feet or more of gross floor area. Gross floor area does not include permanent storage areas, staircases, corridors and restrooms. Preferential carpool and vanpool parking shall be provided to encourage the use of carpooling and vanpooling.

7.4.1.9 Restaurant, lodge, club, recreation use or other place of assembly

One parking space for each four seats of rated capacity or one space for each four persons normally expected on the premises at the time of maximum use plus such

Appendix GG

Town of Belmont's Zoning Bylaw

Section 6A. McLean District

Section 6A.3 Parking and Access Requirements

Section 6.A.3.1 Maximum Number of Spaces

- b) Maximum gross floor area of 668,000 square feet.
- c) Minimum setback from buildings to the Subdistrict boundary line of 15 feet. No fences or walls higher than 4 feet (or such greater height as is approved by the Planning Board in connection with Design and Site Plan Review), nor any parking areas, may be placed within such setback.
- d) The area within the Subdistrict shown on the Zoning Map as "Conservation Buffer" shall be maintained as open space in an undeveloped and natural condition and no building, fences, walls or paving shall be located in such area.

6A.2.5 Cemetery Subdistrict.

The dimensional requirements applicable to the Cemetery Subdistrict are:

- a) Maximum gross floor area of 2,450 square feet.
- b) Minimum setback from buildings to the Subdistrict boundary line of 15 feet. Minimum setback from buildings to public streets of 30 feet. No fences or walls higher than 4 feet (or such greater height as is approved by the Planning Board in connection with Design and Site Plan Review), nor any parking areas, may be placed within such setbacks.

6A.3 Parking and Access Requirements

6A.3.1 Maximum Number of Spaces.

Accessory parking for the uses allowed in the Residential Subdistricts, the Senior Living Subdistrict, the Research and Development Subdistrict, the McLean Institutional Subdistrict, and the Cemetery Subdistrict shall be allowed provided that such parking may not exceed the limits set out in the following table.

Residential Subdistricts	Two inside parking spaces and two outside parking spaces per dwelling and 122 parking spaces for guests.
Senior Living Subdistrict	One parking space per unit and 50 parking spaces for staff and guests.
Research and Development Subdistrict	Three and one-half parking spaces per 1,000 square feet of gross floor area.
McLean Institutional Subdistrict	<ul style="list-style-type: none">➤ For existing uses and structures 853 parking spaces.➤ For new construction, as follows: 3 per 1,000 square feet of gross floor area; provided, however, that the total of parking spaces added for all new construction may not exceed 150 spaces.
Open Space Subdistrict (privately-owned lands)	Five parking spaces adjacent to the Mill Street Lodge; five parking spaces adjacent to the Pleasant Street Lodge.
Cemetery Subdistrict	Seven parking spaces.

The accessory use parking of commercial vehicles shall be further restricted as follows in the several Subdistricts:

- a) Residential Subdistricts - by Special Permit only.
- b) Senior Living Subdistricts – prohibited.
- c) Research and Development Subdistrict – permissible if parked indoors or in a parking garage overnight.
- d) McLean Institutional Subdistrict – permissible.
- e) Open Space Subdistrict – prohibited.
- f) Cemetery Subdistrict – prohibited except for Town-owned vehicles.

Note: §6A.3.1 was amended by Article 28 at the 2001 Annual Town Meeting.

6A.3.2 Parking Location and Layout

Parking must be located in the same Subdistrict as the use it serves. Parking space sizes shall conform to the rules and requirements generally applicable to the Town of Belmont as established from time to time by the Planning Board. Inside parking spaces in the Residential Subdistricts shall be located within a dwelling or an attached garage (no garage shall contain more than two spaces). Outside parking spaces in the Residential Subdistricts shall be located within a driveway leading to the garage. Guest parking spaces in the Residential Subdistricts shall be outside and shall be located in clusters of no more than 6 spaces each, such clusters to be located as approved by the Planning Board in connection with Design and Site Plan Review. No more than 350 parking spaces in the Senior Living Subdistrict may be outdoor surface spaces; the remainder must be located within a parking garage or other building. No more than 350 parking spaces in the Research and Development Subdistrict may be outdoor surface spaces, the remainder must be located within a parking garage or other building.

6A.3.3 Access Limitations

Vehicular access to the Residential Subdistricts and the McLean Institutional Subdistrict shall be via Mill Street, except in case of emergency access. Vehicular access to the Senior Living Subdistrict and the Research and Development Subdistrict shall be via Pleasant Street, except in case of emergency access.

6A.4 Design and Site Plan Review

Any activity requiring a Building Permit in any Subdistrict, and any proposed construction of a vehicular access way across land in the Open Space Subdistrict, shall require Design and Site Plan Approval by the Planning Board pursuant to this Section 6A.4 (the provisions of Section 7.3 of this By-Law shall not apply except as provided below).

The Planning Board shall promulgate rules requiring any applicant for Design and Site Plan Review under this Section 6A.4 to pay a review fee, in an amount to be determined by the Planning Board to cover the reasonable costs of the Planning Board for the employment of any independent consultants determined to be needed to assist in the review of the application for Design and Site Plan Approval. Such consultants shall be qualified professionals in the relevant fields of expertise determined by the Planning Board.

ARTICLE VIII
Off-Street Parking and Loading
[Amended 10-27-1992 STM by Art. 18;
5-11-1994 ATM by Arts. 55 and 56]

§ 135-801. Purpose.

The purpose of this section is to promote the general welfare and public convenience by:

- (1) Providing adequate off-street parking facilities;
- (2) Ensuring the safe access and egress and movement within the development; and
- (3) Protecting abutting residential uses from the adverse impact of vehicular uses.

§ 135-802. Applicability.

- A. Off-street parking and loading facilities as specified in §§ 135-806A and 135-814A shall be provided for any new building or structure constructed, for any new uses established and for any change of use in an existing building or on a site which would require the provision of additional parking spaces. Any construction of a new parking facility shall comply with all the requirements set forth in Article VIII. Any reconstruction of an existing parking facility which cumulatively exceeds 25% of the parking area (excluding resurfacing) shall comply with all the requirements set forth in Article VIII.
- B. For the purposes of this chapter, "off-street parking facility" shall mean a surface parking lot, and "parking structure" shall mean a parking garage.

§ 135-803. Decreases in parking requirements.

- A. A decrease in the number of off-street parking spaces required by this section may be granted as a condition for the issuance of a special permit or a site plan review provided that the following criteria have been met:
 - (1) The intent of this section is preserved.
 - (2) The amount of off-street parking to be provided will be sufficient to serve the uses for which it is intended.
 - (3) The decrease in required off-street parking is based on a parking study prepared by a registered professional engineer. Said study shall include, at a minimum, the following:
 - (a) Size and type of uses or activities on site;
 - (b) Composition of tenancy on site;
 - (c) Rate of parking turnover;

- (d) Peak traffic and parking loads to be encountered;
 - (e) Local parking habits;
 - (f) Availability of public transportation.
- B. Should the special permit granting authority (SPGA) allow a decrease in the amount of required off-street parking, the SPGA shall require that a portion of the site be reserved to meet the off-street parking spaces required by this section. This reserved area shall not be developed and shall be either landscaped or maintained in a natural state. Said area shall not contribute towards the open space requirements as set in § 135-701.

§ 135-804. Multiple uses.

- A. In those cases where a combination of principal uses as identified in § 135-806A exists on one site, off-street parking shall be provided for each use in accordance with the requirements set in § 135-806A, Schedule of Off-Street Parking Requirements.
- B. In those cases where a retail use as identified in § 135-806A contains separate nonretail areas (excluding office uses) within the same structure as the retail use, the SPGA, at its discretion, may treat the nonretail areas as a separate use which shall require one off-street parking space per 1,000 square feet of area provided the following criteria are met:
- (1) The retail use including all nonretail areas has a minimum area of 25,000 square feet;
 - (2) Each individual nonretail area to be treated as a separate use must have a minimum area of 3,000 square feet;
 - (3) The site on which the retail use is located conforms to the lot size, lot coverage and open space requirements set in § 135-701;
 - (4) There is a constructed separation between the retail and nonretail areas; and
 - (5) There shall be no direct sale of goods or services from the nonretail areas.

§ 135-805. Location of required off-street parking facilities.

- A. All off-street parking spaces as required by this section shall be located on the same site that they are intended to serve, except as authorized under § 135-805B.
- B. Required off-street parking for business or commercial developments may at the option of the applicant be located off site provided that the following criteria are met:
- (1) The required parking is located within 800 feet of the uses which it is intended to serve.
 - (2) There shall be no traffic hazards for pedestrians utilizing the off-site parking facility as determined by the Braintree Police Department.
 - (3) Off-site parking facilities for retail uses shall not be permitted except for designated employee parking.

SECTION IV GENERAL REGULATIONS

4.1 OFF-STREET PARKING

4.1.1 Intent and Application of Parking Requirements

(a) It is the intention of this Ordinance that all new structures and new building and land uses be provided with sufficient off-street parking spaces to meet the needs of persons making use of such structures and land uses. No permit shall be issued for the erection of a new structure or the enlargement or change of use of an existing structure unless the plans show the specific location and size of the off-street parking required to comply with the regulations set forth in this Ordinance and the means of access to such space from public streets. In the event of the enlargement or change of use of an existing structure, the regulations set forth in this section shall apply only to the area added to the existing structure or to the building or part thereof having a change of use.

(b) Buildings, structures and land uses in existence on the effective date of this ordinance are not subject to these off-street parking requirements and may be rebuilt, altered or repaired, but not enlarged or changed in use without becoming subject to these requirements.

(c) Except for business and municipal uses which occupy more than 10,000 square feet of space and are located in buildings constructed after February 1, 1990, business and municipal uses need not provide off-street parking if they are located within 400 feet of a Municipal Parking Lot/Facility. (Amended 3/2/99)

(d) Residential uses situated above the ground floor in a structure which existed as of February 1, 1990, contains one or more permitted non-residential uses on the ground floor, and which is located in a Central Business (CB) Zoning District, need not provide off-street parking.

4.1.2 **The following minimum number of parking spaces must be provided except as exempted above, and except that the Zoning Board of Appeals may issue a Special Permit for a lesser number upon demonstration by the applicant that such lesser number will serve the intent of these provisions:**

(a) For residential structures: at least one off-street parking space shall be provided for each dwelling unit in the CB, VB, R-5 or CCD district and at least one and one-half off-street parking spaces shall be provided for each dwelling unit located in other districts. Such spaces shall be located on the same lot as the dwelling they serve. When the off-street parking space is in the form of a private garage, its location on the lot shall conform with the provisions of this Ordinance governing the erection of a structure intended for an accessory use.

(b) For hotels, motels, motor inns, boarding, lodging, or tourist homes: one space per guest unit plus one space per three employees. For dormitories or similar group living quarters, one space per bed.

Appendix JJ

Town of Ipswich's Protective Zoning Bylaw

Section VII. Off-Street Parking and Loading Regulations

Section VII.I. Municipal Parking Lot Exemption

y, except that said number of spaces may nonstrated that the hours or days of peak e adequate for all uses served by the

H. Location of Parking Facilities

All required parking or loading spaces shall be provided on the same lot as the use or building for which they are required; provided, however, that if sufficient spaces are unavailable on that lot, the Zoning Board of Appeals may authorize by special permit an alternative location for non-residential parking subject to the following provisions:

1. The lot to be utilized for parking shall be in the same legal ownership as the lot served either by deed, by easement, or by long-term lease, no less than thirty (30) years in duration. If the lot is leased, the terms of the lease shall be subject to the Zoning Board of Appeal's approval as to form and duration. Such deed, easement, or notice of lease shall be recorded at the Registry of Deeds, and a copy of the same as recorded shall be filed with and made part of the application for any building or occupancy permit.
2. The linear distance between the use or building lot and its parking lot shall not be more than three hundred (300) feet.
3. The separate parking lot shall not create unreasonable traffic congestion or create a hazard to pedestrians being served by the parking lot.
4. The parking lot shall be properly zoned for the same or a less restrictive use as the principal lot being served by the parking lot. Provided, however, in the case of lots situated in more than one district, not more than twenty (20) percent [or ten (10) spaces, whichever is the lesser] of the parking and loading spaces required for the use of the less restrictively zoned portion of the lot may be located in the more restrictively zoned portion of the lot, so long as the parking and loading spaces and any necessary drives or other paved areas do not extend more than fifty (50) feet into the more restrictively zoned parcel, and all other setbacks, screening, dimensional, density, and other requirements of this bylaw are complied with. (Amended by 10/18/93 Special Town Meeting; approved by Attorney General 2/3/94)

I. Municipal Parking Lot Exemption

Business uses need not provide off-street parking if they are located in the Central Business District or within 500 feet of either the municipally-owned parking spaces in the Market Street Parking Lot (identified as all or part of Lots #226, #228 and #235 on Assessor's Map 42A and Lot #298A on Assessor's Map 41B), or the Elm Street/South Main Street Municipal Parking Lot (identified as all or part of Lots #111, #113 and #114 on Assessor's Map 42A). (Amended by 10/20/03 Special Town Meeting; approved by Attorney General 1/22/04)

J. Loading Requirements

Minimum off-street loading requirements shall be required in accordance with the formulae set forth below for every new structure, new use, enlargement of an existing structure and/or change in an existing use. Where the structure is enlarged and/or there is a change in the existing use, the formulae shall apply only to the enlargement and/or change.

Off-street loading areas shall be provided in accordance with the TABLE OF LOADING REQUIREMENTS as outlined below:

Chapter 350. Zoning
§ 350-8.6. Shared parking.

Section 11 Site Plan Approval
Section 350-11.5.B.(3)b Procedures

In all zoning districts, except the Central Business (CB) Districts, the Planning Board may:

- A. Through site plan approval, allow the reduction of the parking space requirements of up to 20% of that required in the Table of Off-Street Parking Regulations where conditions unique to the use will reasonably justify such a reduction, including two-story buildings in the Highway Business (HB) District.
- B. Through site plan approval, reduce parking requirements for major projects listed in § 350-8.1 by up to 20% of parking needed for employees (no credit for parking needed for visitors or customers) if:
 - (1) The applicant incorporates satisfactory methods, acceptable to the permit granting authority, to reduce the need for parking into their design and into the trip-reduction plan described in § 350-11.5B(3) by at least the same percentage; and
 - (2) If the site plan approval is conditioned on the on-going use of those trip-reduction methods with effective enforcement tools included.
- C. Through a special permit, allow a greater percentage reduction where joint use of the same spaces by two or more uses or establishments is justifiable by virtue of the fact that the uses or establishments generate peak demand at substantially different time periods.

Chapter 350. Zoning
§ 350-11.5. Procedures.

- B. The application for site plan approval shall be accompanied by a site plan, drawings and supporting documentation in a form specified by rules and regulations which shall show, among other data, the following:
 - (3) Estimated daily and peak hour vehicle trips generated by the proposed use, traffic patterns for vehicles and pedestrians showing adequate access to and from the site, and adequate vehicular and pedestrian circulation within the site. In addition, major projects, as defined above, shall prepare a traffic impact statement including the following information:
 - (b) A plan to minimize traffic safety impacts of the proposed project through such means as physical design and layout concepts, staggered employee work schedules, promoting use of public transit or van- or carpooling, or other appropriate means. For new commercial, office, and industrial buildings or uses over 10,000 square feet, this plan shall evaluate alternative mitigation methods to reduce traffic by 35%, including:

[1] Public transit, van- and car-pool incentive programs, including parking facilities and weather-protected transit shelters;

[2] Encouraging flexible hours and workweeks;

[3] Encouraging pedestrian and bicycle access to the site;

[4] Provision of integrated land uses, including on-site services, retail, and housing.

(c) A detailed assessment of the traffic safety impacts of the proposed project or use on the carrying capacity of any adjacent highway or road, including the projected number of motor vehicle trips to enter or depart from the site for daily-hour and peak-hour traffic levels, road capacities, and impacts on intersections. Said assessment may be based on the proposed mitigation [in the plan required by Subsection B(2) above].

(d) An interior traffic and pedestrian circulation plan designed to minimize conflicts and safety problems.

(e) Safe and adequate pedestrian access, including provisions for sidewalks and/or bike paths to provide access to adjacent properties and adjacent residential neighborhoods, as applicable, and between individual businesses within a development.

Chapter 650. ZONING

Article VII. Dimensional, Landscaping and Parking Regulations

§ 650-48. Off-street parking.

B.

- (3) Common parking areas and mixed uses. Parking required for two or more buildings or uses may be provided in combined parking facilities where such facilities will continue to be available for the several buildings or uses and provided that the total number of spaces is not less than the sum of the spaces required for each use individually, except that said number of spaces may be reduced by up to 1/2 such sum if it can be demonstrated that the hours or days of peak parking need for the uses are so different that a lower total will provide adequately for all uses served by the facility. The following requirements shall be met:
- (a) Evidence of reduced parking needs shall be documented and based on accepted planning and engineering practice satisfactory to the City Planner and Engineer.
 - (b) If a lower total is approved, no change in any use shall thereafter be permitted without further evidence that the parking will remain adequate in the future, and if said evidence is not satisfactory, then additional parking shall be provided before a change in use is authorized.
 - (c) Evidence of continued availability of common or shared parking areas shall be provided satisfactory to the City Solicitor and shall be documented and filed with the site plan.
 - (d) The determination of how a combined or multi-use facility shall be broken down into its constituent components shall be made by the Planning Department.
 - (e) If any reduction in the total number of parking spaces is allowed as a result of this subsection, then 150 square feet of open space (per parking space reduced) shall be provided in addition to that required by lot coverage provisions of this chapter.

- 6.3.7.3.1 Each off-street loading area shall be not less than ten (10) feet in width, thirty-five (35) feet in length, and twelve (12) feet in height, exclusive of driveways.
- 6.3.7.3.2 Off-street loading areas shall be located entirely on the lot to be served, and shall be designed with appropriate means of vehicular access to a street or alley.
- 6.3.7.3.3 Off street loading areas shall be suitably graded, surfaced and drained so as to dispose of all surface water without detriment to surrounding uses.
- 6.3.8 *Special Permits For Parking:*
- 6.3.8.1 Special permit for a change in parking space requirements: the number of off-street parking spaces required by Section 6.3.3, of this bylaw for a use or uses in the Central Business District and in the Commercial I District for Banquet Facilities, Function Halls and Dinner Theaters may be changed by Special permit in accordance with the following provisions: (7-28-03, Art. 4)
1. Special permit criteria: The Planning Board, by special permit, may allow remote parking lots, or shared parking lots which it deems reasonable, based on the following criteria, and other applicable provisions presented in this subsection:
 - (a) The capacity, location and current level of use of existing parking facilities, both public and private;
 - (b) The efficient and maximum use in terms of parking needs and services provided;
 - (c) The relief of traffic and parking congestion;
 - (d) The safety of pedestrians;
 - (e) The provision of reasonable access either by walking distance or shuttle vehicle arrangements;
 - (f) The maintenance of the character of the area.
 2. The following are allowed by Special Permit:
 - (a) The substitution of parking spaces within municipal parking lots in lieu of or in reduction to the parking requirements of this section, provided they are located within 1600 feet of the building which is intended to be served.
 - (b) A reduction in parking space requirements: The number of off-street parking spaces required by Section 6.3.3 of this bylaw for a use or uses in the non-residential districts may be reduced by special permit in accordance with the following provisions:

1. Shared parking: Shared private parking facilities for different buildings or uses may be allowed by Special Permit, subject to the following provisions:
 - (a) Up to fifty percent (50%) of the parking spaces serving a building may be used jointly for other uses not normally open, used or operated during similar hours. The applicant must show that the peak parking demand and principal operating hours for each use are suitable for a common parking facility.
 - (b) A written agreement defining the joint use acceptable to the Planning Board of the common parking facility shall be executed by all parties concerned and approved by the Planning Board as part of the special permit process. Such agreement shall be recorded at the Middlesex Registry of Deeds.
 - (c) Any subsequent change in land uses for which the shared parking proposal was approved, and which results in the need for additional parking spaces, shall require a new special permit application under this subsection.
2. Remote parking: Remote (satellite) parking areas may be authorized by the Planning Board by special permit, subject to the following provisions:
 - (a) The satellite parking spaces will be used solely by the employees and, where practicable, clientele of the commercial use;
 - (b) The off-site parking spaces shall be located to adequately serve the proposed use and shall be within six hundred (600) feet of the building served for clientele of the commercial use. Off-site parking for employees of the business may be located within a distance of one thousand two hundred (1,200) feet, unless shuttle vehicle arrangements are provided as a condition of the special permit . The parking distance shall be measured by the shortest route of pedestrian access, entrance to entrance.
3. Pedestrian access: Any proposals submitted, which, in the opinion of the Planning Board, provide direct and vital pedestrian access to other abutting commercial properties and serve to improve pedestrian accessibility may reduce the number of parking spaces

required by fifteen percent (15%). Pedestrian access shall be provided enough improved pathways, stairway access or other physical improvements, and such access shall be clearly marked. (Art. 27, 10-25-99)

6.4 *(RESERVED)*

6.5 *SCREENING AND LANDSCAPING:*

6.5.1 *Applicability:*

6.5.1.1 The design provisions and setback requirements of this section shall be applied to lots for those circumstances not addressed by Section 6.3.5.2. (04-03-001, Art. 8)

6.5.2 *Design:*

6.5.2.1 Every effort shall be made to retain existing topography, trees, plant materials, and other natural features.

6.5.2.2 The screening required herein, and in Section 6.3.5.2, shall be located so as not to conflict with any corner visibility requirements.

6.5.2.3 All areas not covered by pavement, curbing or structures, shall have appropriate landscaping of grass, shrubbery, trees, flowers, or suitable ground cover indigenous to the area. Playing areas used for court games patios, decks, and walkways shall be considered to be landscaped areas for the purposes of this Section.

6.5.2.4 Wherever setbacks are required, there shall be a four (4) foot wide area of landscaping adjacent to the property boundary, for the entire length thereof, except at entranceways. (4-03-01, Art. 8)

6.5.3 *Pools:*

6.5.3.1 All private pools, both in-ground and above-ground, within the Town of Stoneham shall be enclosed in the following manner:

- (a) In-ground and above-ground pools shall be enclosed within a six (6) foot fence around portion of the area where pool is located and self-locking gate.
- (b) All pools within the Town shall comply with this bylaw within six (6) months of adoption.

Cross reference—Health standards for swimming pools, Board of Health, Sec. 20-2(a).

Appendix NN
City of Waltham's Zoning Code

Chapter Z. Zoning Code

Article V. Parking Requirements

Sec. 5.2. Off-street parking requirements.

[Added 12-9-1991 by Ord. No. 27265 3-3-1999 by Ord. No. 28735; 4-28-2008 by Ord. No. 30876; 5-28-2002 by Ord. No. 29513; amended 4-28-2008 by Ord. No. 30876]

5.21.

Table of Off-Street Parking Requirements. (e)

Use	Required Parking Spaces
One-family dwelling	2 per dwelling unit
Two-family dwelling	2 per dwelling unit
Multifamily (3 or more per structure)	2 per dwelling unit
Rooming houses, lodging houses	1 per rented bed
Assisted living facilities [Added 3-3-1999 by Ord. No. 28735]	3 for every 4 dwelling units
Theaters, stadiums, auditoriums, halls, membership clubs, function rooms and places of assembly	1 for each 3 fixed seats and 1 for each 36 square feet of unseated public floor area, not including corridors or other service areas
Restaurants, taverns, and other types of eating establishments, but excluding fast-food establishments [Amended 4-14-2014 by Ord. No. 33066]	11 per 1,000 square feet of gross floor area of interior area and 1 space for every 6 seasonal outdoor seats (a)
Restaurant facilities, cocktail lounges and function rooms associated with hotels and motels, but excluding fast-food establishments [Amended 4-14-2014 by Ord. No. 33066]	11 per 1,000 square feet of gross floor area of the interior area and 1 space for every 6 seasonal outdoor seats (a)
Fast-food establishments [Added 4-14-2014 by Ord. No. 33066]	The greater of 1 parking space for every 3 seats in customer food service areas, including seasonal outdoor seats, or 6 spaces per 1,000 square feet of gross floor area of interior of the establishment (f)
Recreational Activities:	
Tennis courts (in/outdoor)	6 per court
Handball and/or racquetball	3 per court
Swimming pools (in/outdoor)	3 for each 5 feet or portion thereof in width or 3 per 150 square feet, whichever produces the greater number of spaces
Other recreational activities	1 for every 2 participants and 1 for every 3 spectators
Conservation/nature activities	1 for every 3 participants

Use	Required Parking Spaces
Hotels, motels, hotels-motels	1 per bedroom
Stores/shops (retail business) [Amended 10-26-1992 by Ord. No. 27451]	6 per 1,000 square feet of gross floor area
Offices	1 per 300 square feet of gross floor area
Banks	1 per 200 feet of banking floor space open to the general public
Mixed occupancy	See Footnote (c)
Industrial, manufacturing establishments and laboratory spaces, as defined herein (b)	1 per 2 workers, based on peak employment
Hospitals	1 per 350 square feet of gross floor area
Medical offices, outpatient only	1 per 150 square feet of gross floor area

5.22.

Footnotes.

(a) For the purpose of determining the total number of seats for any seasonal outdoor seating areas, only seating located at tables, counters, or other such surfaces shall be included in the calculation of the parking requirement. Such seating shall be included in the calculation of the parking requirement whether fixed in place or not. Where benches are located at tables, counters, or other such surfaces, such bench seating shall be counted at the rate of 1 seat for every two feet of bench length.

[Amended 4-14-2014 by Ord. No. 33066]

(b) The Inspector of Buildings shall estimate peak employment that will occur after occupancy, and he shall issue a building permit based on this judgment. However, in no instance shall off-street parking requirements be required at a rate of less than one space per 1,000 square feet of gross floor area.

(c) Notwithstanding any other parking requirements set forth in this chapter for individual land uses, when any land or building is used for two or more distinguishable purposes (i.e., joint or mixed use development), the minimum total number of parking spaces required to serve the combination of all uses shall be determined in the following manner:

Multiply the minimum parking requirement for each individual use (as set forth in the applicable section of this chapter for each use) by the appropriate percentage (as set forth below in the Parking Credit Schedule Chart) for each of the five designated time periods and then add the resulting sums from each vertical column. The column total having the highest total value is the minimum shared parking space requirement for that combination of land uses.

Parking Credit Schedule Chart

Uses	Weekday			Weekend	
	Night Midnight to 7:00 a.m. (percent)	Day 7:00 a.m. to 5:00 p.m. (percent)	Evening 5:00 p.m. to Midnight (percent)	Day 6:00 a.m. to 6:00 p.m. (percent)	Evening 6:00 p.m. to Midnight (percent)
Residential	100	60	90	80	90
Office/industrial	5	100	10	10	5
Commercial retail [Amended 10-26-1992 by Ord. No. 27451]	5	80	90	100	70
Hotel	70	70	100	70	100
Restaurant	10	50	100	50	100
Restaurant associated with hotel	10	50	60	50	60
Entertainment/ recreation (theaters, bowling alleys, cocktail lounge and similar)	10	40	100	80	100
Day-care facilities	5	100	10	20	5
All other	100	100	100	100	100

(d) Parking shall be permitted, for use and convenience of the residents, guests, and staff only of an elderly assisted living unit residence, in the front yard, provided that it is set back at least 10 feet from the lot line.

(e) For the parking requirements for the Business C District, see Section 5.23.

(f) Customer food service areas include only those portions of a fast-food restaurant used for customer seating for the purpose of consuming food and/or drink on the premises of the facility, including outdoor seating areas. Customer food service areas do not include kitchen, waiting areas, walkways, aisles, restrooms, take-out counters or other portions of the premises where customers are not seated for the purpose of consuming food and/or drink on the premises.

[Added 4-14-2014 by Ord. No. 33066]

5.23. Parking requirements for the Business C District.

5.231.

Parking requirements for all uses permitted as of right or by special permit, except residential, shall not be required for the first 20,000 square feet of gross floor area for structures on individual lots within the Business C District. New development in excess of 20,000 square feet or additions to structures already over the 20,000 square feet or additions that will cause the structure to exceed 20,000 gross square feet shall be subject to a parking standard of one space per 500 gross square feet for all building area in excess of 20,000 square feet.

5.232.

Parking standards for residential dwelling units, newly constructed or designed from existing commercial space, shall have 1 1/4 parking spaces per dwelling unit.

5.233.

Where private off-street parking exists in conjunction with a structure on an individual lot or on a separate lot, the existing structure can be removed and a new structure constructed having up to 20,000 square feet of gross floor area without being subject to parking standards. However, at least the previous number of private off-street parking spaces must be redesigned into the new site plan. Similarly, existing structures of under 20,000 square feet of gross floor area may be enlarged up to 20,000 square feet of gross floor area, and provided that the resulting structure does not exceed 20,000 square feet of gross floor area. If the enlarged structure exceeds 20,000 square feet of gross floor area, the portion over 20,000 square feet of gross floor area shall be subject to off-street parking requirements. However, after temporary removal to facilitate enlargement or reconstruction, the previous number of private off-street parking spaces must be redesigned onto the existing parcel.

5.24. Parking requirements for the Hope Avenue Redevelopment Districts.

5.241.

With respect to residential and hospital uses, notwithstanding the provisions of Section 5.21 to the contrary, the parking requirements for those two uses shall be as follows: 1 1/2 parking spaces per dwelling unit for residential dwelling units and one parking space per 1,000 square feet of gross floor area for hospital uses.

5.242.

Notwithstanding the provisions of Sections 5.41 and 5.47 to the contrary, up to 50% of all parking spaces, whether or not required, may be designed for small cars, i.e., sixteen-by-eight-foot parking spaces, as of right.

5.243.

Notwithstanding the provisions of Section 5.8 to the contrary, off-street parking spaces, whether or not required, may be located on other land in either the HR1 or HR2 Zoning District so long as the distance between an entrance of the building being served by such off-street parking and a pedestrian entrance to the parking lot or parking structure within which such parking spaces are located is not more than 600 feet.

5.244.

The loading requirements of Section 5.91 shall apply to HR1 and HR2 Zoning Districts.

Appendix OO

City of Westfield's Zoning Ordinance

Section 7 Off-Street Parking and Loading

Section 7-10-3 Location and Layout

Section 7-10-7 Shared Parking

Section 7-10-3 Location and Layout

1. **Location.** All required parking shall be provided on the same lot with the main use it is to serve or, in Commercial, Business and Industrial Districts, on a lot that is in the same ownership as, and located within, three hundred (300) feet of the main use, except as provided in 7. and 8. of this Section.

Parking required for two or more buildings or uses may be provided on the same lot as the main use or, in Business and Industrial Districts, on a lot under the same ownership in combined facilities where it is evident that such facilities will continue to be available for the several buildings or uses, except as provided in 7. and 8. of this Section. (03-17-11)

2. **Size.** In a parking lot or parking building up to sixty percent (60%) of the parking bays must be 9 feet by 19 feet in size. The remaining forty percent (40%) may have a reduced bay size of 9 feet by 16 feet to accommodate smaller cars. These bay sizes are exclusive of adequate driveways and aisles which must have direct access to a street or alley. In the case of perpendicular parking, a minimum aisle width of twenty-four (24) feet must be maintained. Bumper or wheel guards will be provided when needed.
3. **Lighting.** All artificial lighting used to illuminate any parking space or spaces shall be arranged that all direct rays from such lighting fall entirely within such parking space or spaces.
4. **Screening.** In the case of any use in a Residential District for which five (5), or more parking spaces are required, all parking spaces not within a building shall be provided with a suitable fence, wall, or evergreen planting at least five (5) feet in height, designed to screen noise, odors, visibility and headlight glare, and located between such parking spaces and any other lot in a Residence District that abuts directly or across a street.
5. **Landscaping.** All open air surface parking areas shall be landscaped in the following manner in order to facilitate traffic channelization and control, to minimize heat and urban amenities:
 - a. Parking areas with a capacity of fifteen (15) parking spaces or less shall be excluded from the provisions of this sub-section.
 - b. Parking areas with a capacity of more than fifteen (15) and less than seventy-five (75) parking spaces shall be landscaped a minimum of three (3) feet wide around the perimeter of any lot abutting a street. In addition, adequate bumpers or berms shall be installed to prohibit projection of vehicles over public areas.
 - c. Parking areas with a capacity of more than seventy-five (75) parking spaces shall have a minimum of five (5) percent of the gross lot area devoted to landscaped open space within the parking area. In addition, landscaped islands and/or end islands shall be

installed to prohibit projection of vehicles over public area. All landscaped areas in paragraph 5.b and 5.c must contain grass and live shade and/or ornamental trees with adequate spaces being left unpaved for their growth.

- d. In the case of a development with a parking lot containing more than twenty five (25) cars, a site plan of the parking lot stamped by a registered professional engineer prepared, land surveyor, architect or landscape architect, will be submitted to the Planning Board. (03-17-11)

- 6. Surface and Maintenance All off-street parking facilities required by the Article shall be surfaced with bituminous concrete or its equal, drained, and periodically maintained by the owner or operator, and such facilities shall be arranged for convenient access and safety of pedestrians and vehicles.

Section 7-10-4 Off-Street Loading

Adequate off-street loading and unloading space with proper access from a street, highway, common service driveway, or alley shall be provided on any lot which a business or institutional use is located. In no case shall the required space be less than requirements in Section 7-10.5.

The intent is to prevent parking, unloading or otherwise encroaching on a public right of way.

Section 7-10-5 Off-Street Loading Requirements

- 1. Every department store, freight terminal, railroad yard, hospital or sanitarium, industrial plant, manufacturing establishment, retail establishment, storage warehouse or wholesale establishment, which has as aggregate floor area of twenty-five thousand (25,000) square feet or more, arranged, intended or designed for such use, shall provide off-street loading spaces in accordance with the following table:

<u>Square feet of aggregate floor area devoted to such use</u>				<u>Required number of loading spaces</u>
	25,000	up to and including	100,000	2
Over	100,000	“	160,000	3
“	160,000	“	240,000	4
“	240,000	“	320,000	5
“	320,000	“	400,000	6
“	400,000	“	490,000	7
For each additional 90,000 over			490,000	1 additional

- 2. Every auditorium, convention hall, exhibition hall, funeral home, hotel, multi-family dwelling, office building, restaurant, sports arena or institutional use, which has an aggregate floor area of one hundred thousand (100,000) square feet or more arranged,

intended or designed for such use, shall provide off-street loading space in accordance with the following table:

<u>Square feet of aggregate floor area devoted to such use</u>		<u>Required number of loading spaces</u>		
	100,000	up to and including	150,000	1
Over	150,000	“	400,000	2
“	400,000	“	660,000	3
“	660,000	“	970,000	4
“	970,000	“	1,300,000	5
“	1,300,000	“	1,630,000	6
“	1,630,000	“	1,960,000	7
“	1,960,000	“	2,300,000	8
For each additional 350,000 over 2,300,00				1 additional

- Nothing in this Section shall be construed to prevent the joint use of off-street loading space for two or more buildings or uses if the total of such spaces, when used together, shall not be less than the sum of the requirements for the various individual uses computed separately.

Section 7-10-6 Layout of Loading Facilities

- Each required loading space shall be not less than ten (10) feet in width, fourteen (14) feet in height, and of such length that any truck or trailer occupying such a space shall be located entirely on the lot with the building it is to serve, and shall not extend into sidewalks or the street. In addition, all loading areas must comply with the requirements of Section 3-140.5 Required Yards and Landscaped Areas.
- Loading spaces may not include any of the required parking area. However, accessways and aisles may be used in common approaches to both parking areas and loading areas where approaches to both parking areas and loading areas are adequate for both.

Section 7-10-7 Shared Parking

- . Shared Parking. In Commercial, Business and Industrial Districts; and in Residential Districts except for residential and multi-family uses, Home Occupations and Home Based Businesses; the Planning Board may issue a Special Permit permitting the use of parking spaces for more than one use when they find that the applicant has submitted an adequate Parking Management Plan (including supportive documentation) showing that:
 - a. the peak parking demand generated by the uses occur at different times, and
 - b. there will be adequate parking for the combined uses at all times (3-17-11)

18.6 Completion of Mitigation Measures

1. No building permit shall be issued to an applicant for a Special Permit under this section until surety has been established in a sum sufficient to ensure completion of said mitigation measures, in the form of a 100% performance bond, irrevocable letter of credit, or escrow agreement. The sum of said surety shall be established by the SPGA and be approved as to proper form and content by the City Solicitor.
2. No occupancy permit, permanent or temporary, shall be issued to an applicant for a Special Permit under this section until all mitigation measures described in the Development Impact Statement and specified as conditions in the Special Permit have met the following conditions:
 - a. All mitigation measures have been certified by the City Engineer as complete and all public improvements have been accepted by the City of Woburn or the Commonwealth of Massachusetts, whichever is applicable;
 - b. All design, construction, inspection, testing, bonding and acceptance procedures have been followed and completed in strict compliance with all applicable public standards and have been certified by the City Engineer.
3. Inflow and Infiltration Fund Exemption: Applicants who receive a Special Permit under this Section which includes conditions which require improvements to the City of Woburn's water and sewer services, and stormwater drainage systems directly implemented by the Applicant, shall not be exempt from the requirements of Title 13, Article 11 of the City of Woburn Municipal Code. (Amended 8/7/2001)

18.7 Traffic Safety and Infrastructure Fund

In lieu of the Applicant performing all or part of the mitigation measures which have been made a condition of the Special Permit, the SPGA may at its sole discretion require the Applicant to make a contribution into the Traffic Safety and Infrastructure Fund (the "fund") equal to three per cent (3%) of the total development costs of the proposed project. In calculating the payment, the Applicant shall not be credited the amount of the contribution required under Title 13, Article 11 of the City of Woburn Municipal Code, or any contribution to roadway, water or sewer

improvements required as a result of the environmental review process of the state or federal government. (Amended 8/7/2001)

1. For purposes of this section, "total development costs" shall mean the total of the cost or value of all development related on site improvements, and shall be determined on the basis of standard building or construction costs, such as published in the Engineering News Record or other source acceptable to the City Engineer, for the relevant type of use or structure.
2. The said Traffic Safety and Infrastructure Fund shall be established in the City Treasury and shall be kept separate and apart from other moneys by the City Treasurer. Any moneys in said fund shall be expended only at the direction of the City Council, with the approval of the Mayor, for the purposes mentioned below. All moneys which are collected as a result of any contribution to this fund shall be transferred to the principal of said fund, and the City Treasurer shall be the custodian of the fund and shall deposit the proceeds in a bank or invest the same in such securities as are legal for the investment of funds of savings banks under the laws of the Commonwealth of Massachusetts, or in federal savings and loan associates situated in the commonwealth. Any interest earned thereon shall be credited to and become a part of such fund. The fund shall be administered by the City Engineer of the City. In all matters, the City Engineer shall consult with and obtain recommendations and cost estimates from the Superintendent of Public Works or other appropriate department heads. (Amended 8/7/2001)
3. Any moneys in the fund shall be expended only by a majority vote of the entire membership of the City Council, with the approval of the Mayor, and shall be appropriated only for the purpose of maintaining and improving the public rights-of-way, the water supply and distribution system, and the storm and sanitary sewer infrastructure of the city, which shall include traffic regulation and control, road improvements (including widening), traffic control signals, street lighting, sidewalks and other public improvements related to traffic safety, the installation or repair of wells for the supply of municipal water, water treatment facilities, water distribution lines, pump stations, reservoirs and other storage water facilities, metering facilities, and other water distribution facilities, and storm and sanitary sewer lines, treatment facilities, drainage and catch basins, or other sewerage facilities, and including new construction where needed. The cost of land takings necessary to accomplish any of the purposes listed herein shall be considered a proper purpose for the expenditure of moneys

from this fund. No moneys in this fund shall be used for any purpose not included or directly related to the purposes listed above. Further, moneys contributed by a specific applicant for a special permit under this section shall be spent on mitigation measures related to said development, specified in the Project Mitigation Statement, and specified as conditions in the special permit.

4. Said moneys shall be paid by applicants seeking a special permit under this section, and provided further that all contributions must be paid into the "fund" before a permanent occupancy permit will be issued.
5. Per written request of the Applicant, the SPGA may allow him/her to directly implement a portion of the proposed mitigation measure identified in the Project Mitigation Assessment, and which have been made conditions of the special permit. The costs of those measures, itemized by cost category, as certified by the City Engineer and approved by the SPGA, shall be credited to the Applicant's payment to the Traffic Safety and Infrastructure Fund, and said payment shall be reduced by the certified amount.
6. The Applicant will be required to provide fee payment and irrevocable letter of credit to the City for the full impact fee as specified above. The credit shall be applied and the amount of the letter of credit reduced at the completion of the project, as certified by the City Engineer.
7. If the Applicant has defaulted on the conditions of the Special Permit, and has not completed the mitigation work before the issuance of a temporary or final occupancy permit, the City shall complete the mitigation measures as much as is practical with funds obtained through the exercise of the letter of credit above.
8. The proponent shall agree to participate in the regional or local transportation management association (TMA) and implement a transportation demand management program that includes the assignment of an Employee Transportation Coordinator to work with the TMA and employees to encourage ridesharing and the use of public transportation.

18.8 Waivers

1. The SPGA, by a majority vote, after receiving Development Impact Statement

5.24.3 On lots abutting streets on more than one side, the front yard requirements of each of the abutting streets shall apply regardless of designated front lot lines. Any remaining sides shall be subject to side yard requirements.

5.24.4 Measurements for minimum yards which are determined by formula shall be made in the following manner:

(1) "H" is the height of the building. "L" is the length of the wall measured parallel to the corresponding lot or street line. The front yard is measured from the street line, or building line where such has been established, except where otherwise indicated herein. For buildings of forty (40) feet or less in height the denominator in the yard formulas in the Tables in Section 5.30 may be increased by two subject to the minimum yard requirements set forth in footnotes a, b and c of Tables 5-1 and 5-2.

(2) Where a building consists of various roof levels an average height, or "H", may be used in the required yard formula. Average height is determined by adding the products of the height of each roof level facing the given lot line, (H₁, H₂, etc.) times the length of each roof level (L₁, L₂, etc.) and dividing the sum by the sum of the length of the levels (L₁, L₂, etc.) (see formula below)

$$\text{AVERAGE HEIGHT} = \frac{(H_1 \times L_1) + (H_2 \times L_2)}{L_1 + L_2}$$

(3) Where a building presents a variety of vertical planes to any given lot or street line, no plane shall be closer to the street or building line or lot line than permitted by the application to such plane of the appropriate formula in the tables of dimensional requirements in Section 5.30. For all planes set forward of the setback line required by said tables for the building if it were constructed in a single vertical plane, other planes must be set behind the setback line so calculated. The result shall be that the sum of the products of the setback required for each plane times the facing area of each plane respectively shall be at least as great as the product of the setback required by the appropriate table for the building if it were constructed in a single vertical plane times the facing area of the building if viewed as a single plane. (see illustration below):

The product of (setback₁ x facing area₁) + (setback₂ x facing area₂)
MUST EQUAL OR EXCEED the product of (single plane setback) x
(single plane facing area)

5.25 *FAR Exceptions for Parking and Loading Facilities*

5.25.1 Loading Facilities. Areas used for off-street loading purposes shall be exempt from the requirements as to Floor Area Ratio but shall conform to all other requirements of the district in which it is located.

5.25.2 Parking Facilities in Structures. The floor area of an underground parking garage and the floor area of the underground portion of a structure devoted in whole or in part to parking automobiles, shall not be counted as Gross Floor Area and shall be exempt from the requirements as to floor area but shall conform to all other requirements of the district in

which it is located. All other parking in structures shall be subject to the requirements as to Floor Area Ratio.

5.25.21 Area of Parking Facility. For the purposes of this Section 5.25 the area of parking in a structure shall include all parking spaces, access drives, aisles and other elements of the parking facility and shall include any portion of a parking facility located at grade beneath a building but not otherwise enclosed.

5.25.22 Definition of Underground. For the purposes of this Section 5.25 only, "underground " shall mean either of the following:

- (1) The location of the entire parking facility below the finished grade of the ground abutting the structure, or the underground portion thereof, which grade is maintained naturally without any structural support. No more than two access drives, which in combination total no more than 30 feet in width, shall be permitted to be above the finished grade and still be considered to be located underground.
- (2) The location of a portion of the facility above finished grade to the following extent:
 - (1) the mean height of that portion of the parking facility above finished grade around the entire perimeter of the facility does not exceed four (4) feet, which grade is maintained naturally without any structural support (in no case, however, shall the height above mean grade for that portion of the facility facing a public street exceed four feet), and
 - (2) the roof or top of the facility shall be either set beneath other, non-parking facility portions of the structure, landscaped or otherwise finished to serve as a pedestrian plaza, open space amenity, recreation area or pedestrian circulation. The height above mean grade shall be measured to the roof of the facility, or to the ceiling should the facility be set entirely below other non-parking elements of a building.

5.25.3 Exemption for Existing Parking Facilities. Structured parking facilities in existence on or before September 15, 2000, or constructed and occupied at a later date pursuant to a building or special permit in conformance with all provisions of Chapter 40A issued prior to the effective date of the provisions of this Section 5.25, shall not be subject to the requirements as to Floor Area Ratio.

5.25.4 Exceptions to the Provisions of this Section 5.25

5.25.41 Exemption for Residential Parking Spaces. Notwithstanding the provisions of Section 5.25.2 above, the following structured parking located above ground, accessory to a residential use, shall not be calculated as part of the Gross Floor Area on the lot:

- (1) One parking space located within a townhouse unit or a one, two or three family dwelling.
 - (2) A freestanding parking structure containing no more than one parking space per dwelling unit up to a maximum of three parking spaces on a lot containing a one, two or three family dwelling.
 - (3) One parking space per dwelling unit, up to a maximum of fifteen (15) spaces, for multifamily dwellings.
-

5.25.42 Where an above ground parking facility in a structure is proposed to be constructed (a) in the 100-year flood plain, identified as the Zone A flood hazard area (See Section 11.70), or as determined by credible evidence and calculations from a registered professional engineer or (b) on a contaminated site that is listed by the Massachusetts Department of Environmental Protection under the Massachusetts Contingency Plan (310 CMR 40.00) with a Release Tracking Number and has been tier classified, the Planning Board may grant a special permit to waive the limitations of this Section 5.25 so that the parking facility is not subject to the requirements in this Ordinance as to Floor Area Ratio provided only the minimum number of parking spaces required for the uses on the site are provided. In granting such a special permit, the Planning Board shall find the following:

(1) Where in a flood hazard area, the construction of a parking facility underground is (a) not technically feasible due to the requirements of the Massachusetts Wetlands Protection Act (M.G.L. ch. 131, s.40), (b) would require construction that would violate requirements or limitations of the Massachusetts Wetlands Protection Act, (c) would, in the view of the Cambridge Conservation Commission, seriously compromise the wetlands protection objectives of the Massachusetts Wetlands Protection Act), and (d) would result in costs of construction that are significantly greater than would otherwise be typical for the location were it not in a flood hazard area; or

(2) Where the site is contaminated, the construction of a parking facility underground (a) would, in the opinion of a Licensed Site Professional, pose significant risks to public health or the environment through disturbance of hazardous materials and could not be reasonably mitigated in accordance with state and federal regulations, (b) require construction that is prohibited by state or federal regulations related to hazardous wastes, and (c) would result in costs of construction that would render the project financially unfeasible; and

(3) The above ground facility is designed so as to reduce its actual or perceived bulk through, among other possible techniques, limiting the number of parking spaces it contains, placement of portions of the facility below grade where feasible, or its location relative to actively occupied portions of the construction. Construction above grade is discouraged that would increase the amount of impervious area on the lot.

5.26 *Conversion of Dwellings.* No new dwelling unit created by the conversion of an existing dwelling into a greater number of units or by addition or enlargement of an existing dwelling shall be permitted unless the requirements of minimum lot area for each dwelling unit, maximum ratio of floor area to lot area, private open space and off street parking are satisfied for all dwelling units (in existence and proposed) in the dwelling after the conversion or enlargement.

5.27 *Calculation for lot in two or more zoning districts.* The maximum residential density (lot area per dwelling unit) and gross floor area allowed on lots located in two or more zoning districts shall be calculated using the formulas specified in this Subsection 5.27.

Chapter 196. RESIDENTIAL DRIVEWAYS AND CURB CUTS

§ 196-5. Guidelines for location and construction.

The proposed driveway entrances shall be located to minimize points of traffic conflict, both pedestrian and vehicular. The following guidelines shall be used to achieve this standard:

- A. Entrance and exit driveways shall be so located and designed as to achieve maximum practicable distance from existing and proposed access connections from adjacent properties.
 - B. The proposed driveway shall be located at least 10 feet from all side or rear property lines.
 - C. Safe stopping sight distances of approximately 250 feet in both directions are to be provided at driveway openings on all major (as defined in the Rules and Regulations of the Dover Planning Board) streets and 150 feet on secondary and minor (as defined in the Rules and Regulations of the Dover Planning Board) streets.
 - D. No sign, opaque fence, hedge or similar obstruction located along the frontage property line and adjacent to the proposed driveway shall be permitted to block vision at eye level 2 1/2 to 3 feet above street grade within 10 feet of each side of driveway. (See Fig. R-1, Clear Sight Lines.)^[1]
- [1]: *Editor's Note: Figure R-1, Clear Site Lines, is included at the end of this chapter.*
- E. Sight line height restrictions. No fence, plantings or objects which obstruct vision shall exceed 36 inches in height within approximately 15 feet of the street pavement edge along the lot line that contains the driveway entrance (or exit). (See Figure R-2, Height Restriction Lines.)^[2]
- [2]: *Editor's Note: Figure R-2, Height Restriction Lines, is included at the end of this chapter.*
- F. Driveways shall be so located and designed as to prohibit vehicular traffic from using driveways to avoid intersections, to cut corners or to avoid stop signs.
 - G. Where a driveway crosses a sidewalk, the driveway shall hold the grade of the sidewalk.
 - H. Within 40 feet of the sideline of the street, the grade shall not exceed 10%.
 - I. If the Wetlands Protection Act applies, proposed driveways shall meet all conditions imposed by the Conservation Commission.
 - J. Attention is directed to § 185-29B of Chapter 185, Zoning whereby, "No building or similar structure, driveway, street or other paved surface ... shall be located within 150 feet of the edge of the Charles River or within 50 feet of either edge of Trout Brook, Powissett Brook, Noanet Brook, Clay Brook or Fisher Brook, as such brooks are shown on the Zoning Map, as amended and on file in the office of the Town Clerk."^[3]

[3]: *Editor's Note: The Zoning Map is included in a pocket at the end of the Code.*

- K. If the driveway is to be located on a "scenic road" as defined by MGL c. 40, § 15C and as enumerated in the Rules and Regulations of the Dover Planning Board Governing its Administration of the Scenic Road Act, approval under the Scenic Road Act must be obtained prior to the issuance of a curb cut permit and the proposed driveway shall meet all the requirements and conditions of the Planning Board pursuant to the Planning Board's duly adopted Rules and Regulations of the Dover Planning Board Governing its Administration of the Scenic Road Act.

- L. The Superintendent of Streets may impose other conditions or requirements not covered in this chapter.

Appendix SS
Town of Marshfield's Zoning Bylaw
Article 11 Special Permit Conditions
Section 11.11 Curb Cut Bylaw

or a traffic mitigation fund at least equal to \$300.00 per acre required to serve the proposed use under this bylaw. For standard:

- Level of Service" (LOS) shall be determined according to criteria in the most recent edition of the manual of the Transportation Research Board of the National Research Council;
- b. "Impacted" means intersections projected to receive at least five per cent (5%) of the expected traffic generated by the proposed development, either based upon the total anticipated peak hour traffic generated by the proposed project, or based upon the total anticipated average daily traffic counts generated by the proposed project; and
 - c. "Adequate" shall mean a level of service of "B" or better for rural, scenic and residential streets and for all new streets and intersections to be created in connection with the project; and "D" or better for all other streets and intersections.
4. Administrative Procedures: The Special Permit Granting Authority (SPGA) shall adopt rules relative to the issuance of a special permit and file a copy with the Town Clerk. The SPGA shall follow the procedural requirements for special permits as set forth in Chapter 40A, Section 9. The SPGA shall also impose, in addition to any applicable conditions specified in this bylaw, such applicable conditions as it finds reasonably appropriate to improve traffic flow or conditions, safety, or otherwise serve the purposes of this bylaw. Such conditions shall be imposed in writing and the applicant may be required to post a bond or other surety for compliance with said conditions in an amount satisfactory to the Board. After notice and public hearing, and after due consideration of the reports and recommendations of other town boards and departments, the SPGA may grant such a permit.

(Amended STM 10/27/2014)

Section Curb Cut Bylaw
11.11

- 1. Applicability and Use - All driveway openings for special permit uses must be approved by the Special Permit Granting Authority (SPGA). The SPGA shall solicit from and consider any comments received by the Board of Public Works in approving or conditioning such a curb cut permit.
- 2. Required Performance Standards - The following standards shall guide issuance of curb cut permits by the SPGA:
 - a. One curb cut shall be allowed per parcel. If frontage exceeds 600', one additional curb cut may be permitted where it will aid access to and

circulation within the parcel. For the purpose of this provision, "parcel" shall mean the entire property subject to an application and any other contiguous land in common ownership or control on or after the date of this bylaw (as amended at the Annual Town Meeting on April 29, 1999). Lots shall not be subdivided for the purpose of increasing the number of permissible curb cuts.

- b. Curb cuts shall be no closer than 75 feet to existing curb cuts and 75 feet to intersecting roadways.
 - c. Wherever possible, access shall be provided onto side streets to avoid the need for a curb cut onto major roadways.
 - d. Joint or shared curb cuts with adjoining parcels are encouraged. When it will facilitate such an arrangement, the SPGA may reduce or eliminate the required side yard setback on the parcel. In such cases, the applicant must submit proof of such an arrangement such as reciprocal easements.
 - e. Curb cut widths shall be the minimum necessary for safe access and egress. The maximum width of curb cuts shall be 30 feet. Curb cuts shall be clearly defined with curbing. The Special Permit Granting Authority may modify these width requirements where necessary to promote safe access to or circulation within the parcel.
 - f. Applicants proposing redevelopment or expansion of existing uses shall correct existing access problems by better defining curb cuts or eliminating excess curb cuts.
 - g. The SPGA may restrict curb cuts to right turn in/right turn out only when, in the opinion of the SPGA, such restriction is necessary for public safety and to minimize traffic congestion.
 - h. Where state curb cut approval is required, applicants are encouraged to apply for such approval concurrently with local approval in order to maximize coordination between local and state review.
3. Administrative Procedures - The SPGA shall adopt rules and regulations relative to the issuance of a curb cut permit and file a copy with the Town Clerk. The SPGA shall follow the procedural requirements for special permits as set forth in Chapter 40A, Section 9. The SPGA shall also impose, in addition to any applicable conditions specified in this bylaw, such applicable conditions as it finds reasonably appropriate to improve traffic flow or conditions, safety, or otherwise serve the purpose of this bylaw. Such conditions shall be imposed in writing, and the applicant may be required to post a bond or other surety for compliance with said conditions in an amount satisfactory to the Board.

After notice and public hearing, and after due consideration of the reports and recommendations of other town boards/departments, the SPGA may grant such a permit.

Section Communications Towers and Wireless Communications Facilities
11.12

1. Purpose, Applicability and Use - The purpose of this bylaw is to establish appropriate siting criteria and standards for communications towers and facilities including but not limited to radio, television, and cellular communications in order to minimize adverse visual impacts and maintain the residential character of the town, and preserve scenic views to and from the town's roadways and waterways. This bylaw is intended to establish reasonable regulations while allowing adequate service to residents, the traveling public and others within the town and to accommodate the need for the minimum possible number of such facilities within the Town of Marshfield. The requirements of this bylaw shall apply to all communications towers and wireless communication facilities that require a special permit in accordance with Section 5.04 of this Bylaw, excluding in-kind or smaller replacement of existing equipment.

2. Required Performance Standards

- a. Any tower shall be set back from property lines a distance at least equal to the height of the tower.
- b. No towers may be constructed within areas subject to protection under the inland/coastal wetlands bylaw (Sections 13.01 and 13.02).
- c. Any tower shall be at least 500 feet from any existing building.
- d. Accessory structures housing support equipment for towers shall not exceed 400 square feet in size and fifteen feet (15') in height and shall be screened from view.
- e. Clearing of natural vegetation should be limited to that which is necessary for the construction, operation, and maintenance of the tower.
- f. Night lighting shall be prohibited unless required by federal authorities and shall be the minimum necessary.
- g. One tower shall be permitted per lot.
- h. No tower shall be more than 150 feet above the natural grade.
- i. Shared use of towers and co-location of communications devices is encouraged. All towers constructed as principal uses shall be designed to accommodate the maximum number of communications facilities possible.
- j. Wherever feasible, wireless communication facilities shall be located on existing towers or other non-residential structures, minimizing construction of new towers.

Appendix TT
San Francisco, California
Commuter Benefits Ordinance (SF Environment Code Section 427)
Rule No. SFE13-01-CBO

1 [Pre-Tax Commuter Benefits for Qualifying Transit.]

2
3 **Ordinance amending the San Francisco Environment Code by adding a new Section**
4 **421 to require San Francisco employers to offer commuter benefits to encourage**
5 **employees to use public transit or van pools; to authorize the Department of the**
6 **Environment to implement an Emergency Ride Home program; and making**
7 **environmental findings.**

8 Note: Additions are *single-underline italics Times New Roman*;
9 deletions are *strikethrough italics Times New Roman*.
10 Board amendment additions are double underlined.
Board amendment deletions are ~~strikethrough normal~~.

11 Be it ordained by the People of the City and County of San Francisco:

12 Section 1. Findings. The Board of Supervisors hereby finds and declares:

13 (a) San Francisco is committed to protecting the public health, safety, welfare and
14 environment. Air pollution is one of the major public health threats in San Francisco and
15 contributes to asthma and other respiratory diseases. Encouraging commuters to use public
16 transit and vanpools to reach their place of employment will reduce air pollution from private
17 cars.

18 (b) In 1971, San Francisco adopted a Transit First policy to guide its land use
19 decisions. Encouraging more commuters to use public transit furthers the City's goals to
20 maximize the public's use of public transit.

21 (c) Existing Federal Tax law, 26 U.S.C. § 132(f) [Internal Revenue Code], allows
22 employers and employees to reduce the cost of public transit by enabling employers to deduct
23 as a business expense, qualified transportation benefits that the employer provides for
24 employees' *personal* transportation costs for commuting to and from work, or by allowing
25

1 employees to elect to purchase qualifying transit passes or reimbursement for vanpool rides
2 with pre-tax dollars.

3 (d) The City and County of San Francisco currently offers its 30,000 City employees
4 the opportunity to elect to use pre-tax dollars to purchase qualifying transit passes and van
5 pool transit through an Internal Revenue Code section 132(f) qualified Transit Benefit
6 Program.

7 (e) The Department of the Environment currently administers a grant-based
8 Emergency Ride Home Program, funded by grants from the Bay Area Air Quality
9 Management District's Transportation Fund for Clean Air and the San Francisco
10 Transportation Authority, that removes a major barrier to using public transit or van pools by
11 reimbursing transit and vanpool users for taxi fares, car rental or similar expenses they incur
12 to return home for a family emergency, or other urgent, unanticipated situation.

13 (f) The San Francisco Department of the Environment can assist employers in
14 offering commuter benefits through its commuter benefits hotline, fact sheets, and other
15 technical assistance.

16 (g) Commuter benefits programs will help the City achieve its goal to reduce CO2
17 emissions within the City and County of San Francisco to 20% below 1990 levels by the year
18 2012.

19 Section 2. The San Francisco Environment Code is hereby amended by adding a new
20 Section 421, to read as follows:

21 **SEC. 421. COMMUTER BENEFITS PROGRAM.**

22 **(a) Definitions.**

23 Whenever used in this Section, the following terms shall have the meanings set forth below.

1 (1) "Alternative Commute Mode" shall mean public transit (bus, train, ferry, etc.), vanpool,
2 carpool (including "casual carpool"), bicycling, and walking.

3 (2) "City" shall mean the City and County of San Francisco.

4 (3) "Covered Employee" shall mean any person who:

5 (A) Performed an average of at least eight (8) ten (10) hours of work per week
6 for compensation within the geographic boundaries of San Francisco for his or her the same
7 employer within the previous calendar month; and

8 (B) Qualifies as an employee entitled to payment of a minimum wage from the
9 employer under the California minimum wage law, as provided under Section 1197 of the California
10 Labor Code and wage orders published by the California Industrial Welfare Commission, or is a
11 participant in a Welfare-to-Work Program.

12 (4) "Covered Employer" shall mean an employer for which an average of twenty (20) or
13 more persons per week perform work for compensation. In determining the number of persons
14 performing work for an ~~employee~~ employer during a given week, all persons performing work for
15 compensation on a full-time, part-time or temporary basis, including those who perform work outside
16 of the geographic boundaries of San Francisco, shall be counted, including persons made available to
17 work through the services of a temporary services or staffing agency or similar entity.

18 (5) "Employer" shall mean any person, as defined in Section 18 of the California Labor
19 Code, including corporate officers or executives, who directly or indirectly, or through an agent or any
20 other person, including ~~except~~ through the services of a temporary services or staffing agency or
21 similar entity, employs or exercises control over the wages, hours or working conditions of an
22 employee. "Employer" shall not include any governmental entity.

23 (6) "Transit Pass" shall mean any pass, token, fare card, voucher or similar item entitling a
24 person to transportation on public transit within the meaning of 26 U.S.C. § 132(f)(5)(A), as the
25

1 Federal law may be amended from time to time, including but not limited to, travel by ferry, bus,
2 trolley, streetcar, light rail or train by MUNI, BART, AMTRAK, CALTRAIN, SAMTRANS or GOLDEN
3 GATE TRANSIT.

4 (7) "Transportation Benefit Program" shall mean the program set forth in Sections 410(b)-
5 410(d) of this Ordinance.

6 (8) "Vanpool" shall mean a 'commuter highway vehicle' within the meaning of 26 U.S.C. §
7 132(f)(5)(B), as the federal law may be amended from time to time, which currently means any highway
8 vehicle:

9 (A) the seating capacity of which is at least 6 adults (not including the driver), and

10 (B) at least 80% of the mileage use of which can reasonably be expected to be (i) for
11 the purpose of transporting employees in connection with travel between their residences and their
12 place of employment; and (ii) on trips during which the number of employees transported for such
13 purposes is at least ½ of the seating capacity of such vehicle (not including the driver).

14 **(b) Transportation Benefits Program.**

15 No later than 120 days after the effective date of this Ordinance, all Covered Employers shall
16 provide at least one of the following transportation benefit programs to Covered Employees:

17 (1) A Pre-Tax Election: A program, consistent with 26 U.S.C. § 132(f), allowing
18 employees to elect to exclude from taxable wages and compensation, employee commuting costs
19 incurred for transit passes or vanpool charges (but not for parking), up to maximum level allowed by
20 federal tax law, 26 U.S.C. 132 (f)(2), which presently is one hundred and ten dollars per month (\$110);

21 (2) Employer Paid Benefit: A program whereby the employer supplies a transit pass
22 for the public transit system requested by each Covered Employee or reimbursement for equivalent
23 vanpool charges at least equal in value to the purchase price of a monthly MUNI Fast Pass the

1 appropriate benefit, which shall not exceed the cost of an adult San Francisco MUNI Fast
2 Pass, which presently is \$45; or

3 (3) Employer Provided Transit: Transportation furnished by the employer at no cost
4 to the covered employee in a vanpool or bus, or similar multi-passenger vehicle operated by or for the
5 employer.

6 (c) Administration and Enforcement.

7 (1) The Director of the Department of the Environment, in consultation with the San
8 Francisco Office of Labor Standards Enforcement shall promulgate rules and regulations to implement
9 the Transportation Benefits Program. Such rules and regulations shall, to the extent consistent with
10 this Ordinance, conform to IRS regulations under 26 U.S.C. § 132(f). and rules for the City's Paid Sick
11 Leave Ordinance, Administrative Code Section 12W and Health Care Security Ordinance,
12 Administrative Code Chapter 14.

13 (2) The Department of the Environment shall maintain an education and advice
14 program to assist employers with meeting the requirements of the Transit Benefit Program.

15 (3) Any Covered Employer who fails to offer at least one transportation benefit
16 programs to Covered Employees as required by Section 421(b) shall be guilty of an infraction. If
17 charged as an infraction, upon conviction thereof, said person shall be punished by (A) a fine not
18 exceeding \$100.00 for a first violation, (B) a fine not exceeding \$200.00 for a second violation within
19 the same year, and (C) a fine not exceeding \$500.00 for each additional violation within the same year.

20 (4) The Director of the Department of the Environment, or his or her designee, may
21 issue administrative citations to any Covered Employer who fails to provide at least one transportation
22 benefit programs to Covered Employees as required by Section 421(b). San Francisco Administrative
23 Code Chapter 100, "Procedures Governing the Imposition of Administrative Fines," is hereby
24 incorporated in its entirety and shall govern the amount of fees and the procedure for imposition,
25

1 enforcement, collection, and administrative review of administrative citations issued to enforce this
2 Section 184.77.

3 (5) The City may not recover both administrative and civil penalties for the same
4 violation. Penalties collected under this Chapter, which may include recovery of enforcement costs,
5 shall be used to fund implementation and enforcement of the Transportation Benefits Program.

6 (d) Emergency Ride Home Program.

7 The Department of the Environment is hereby authorized to establish an Emergency Ride Home
8 Program and, to the extent funding is available from the Bay Area Air Quality Management District's
9 Transportation Fund for Clean Air, the San Francisco Transportation Authority, or other sources, to
10 reimburse persons who commute to worksites in San Francisco using an alternative commute mode, for
11 transportation costs to return home, or to a transit spot or remotely parked car, where such costs
12 resulting from an illness or emergency of the commuter or immediate family, or other verifiable,
13 unexpected events out of the commuter's control. The Department of the Environment shall adopt rules
14 and regulations to implement this program.

15 Section 3. Miscellaneous

16 (a) Severability. If any section, subsection, sentence, clause, or phrase of this
17 Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of
18 competent jurisdiction, such decision shall not affect the validity of the remaining portions of
19 the Ordinance. The Board of Supervisors hereby declares that it would have passed this
20 Ordinance and each and every section, subsection, sentence, clause, or phrase not declared
21 invalid or unconstitutional without regard to whether any portion of this Ordinance would be
22 subsequently declared invalid or unconstitutional.

1 (b) No Conflict With Federal Or State Law. Nothing in this Ordinance shall be
2 interpreted or applied so as to create any requirement, power or duty in conflict with any
3 federal or state law.

4 (c) Undertaking for the General Welfare. In undertaking the implementation of this
5 Ordinance, the City is assuming an undertaking only to promote the general welfare. It is not
6 assuming, nor is it imposing on its officer and employees, an obligation for breach of which it
7 is liable in money damages to any person who claims that such breach proximately caused
8 injury.

9 Section 4. Environmental Findings.

10 The Planning Department has determined that the actions contemplated in this
11 Ordinance are in compliance with the California Environmental Quality Act (California Public
12 Resources Code sections 21000 et seq.). Said determination is on file with the Clerk of the
13 Board of Supervisors in File No. 080830 and is incorporated herein by reference.

14
15 APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

16 By: 
17 CATHARINE S. BARNES
18 Deputy City Attorney



City and County of San Francisco

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Tails

Ordinance

File Number: 080830

Date Passed:

Ordinance amending the San Francisco Environment Code by adding a new Section 421 to require San Francisco employers to offer commuter benefits to encourage employees to use public transit or van pools; to authorize the Department of the Environment to implement an Emergency Ride Home program; and making environmental findings.

August 5, 2008 Board of Supervisors — PASSED ON FIRST READING

Ayes: 11 - Alioto-Pier, Ammiano, Chu, Daly, Dufty, Elsbernd, Maxwell, McGoldrick, Mirkarimi, Peskin, Sandoval

August 12, 2008 Board of Supervisors — FINALLY PASSED

Ayes: 11 - Alioto-Pier, Ammiano, Chu, Daly, Dufty, Elsbernd, Maxwell, McGoldrick, Mirkarimi, Peskin, Sandoval

File No. 080830

I hereby certify that the foregoing Ordinance
was **FINALLY PASSED** on August 12, 2008
by the Board of Supervisors of the City and
County of San Francisco.

8-22-08

Date Approved

Kay Gulbenkian

Angela Calvillo
Clerk of the Board

Mayor Gavin Newsom

Chapter 20.400 TRANSPORTATION DEMAND MANAGEMENT

20.400.001 Purpose

The specific purposes of this chapter are the following:

- A. Reduce the amount of traffic generated by new nonresidential development, and the expansion of existing nonresidential development, pursuant to the City's police power and necessary in order to protect the public health, safety and welfare.
- B. Ensure that expected increases in traffic resulting from growth in employment opportunities in the City of South San Francisco will be adequately mitigated.
- C. Reduce drive-alone commute trips during peak traffic periods by using a combination of services, incentives, and facilities.
- D. Promote the more efficient utilization of existing transportation facilities and ensure that new developments are designed in ways to maximize the potential for alternative transportation usage.
- E. Establish an ongoing monitoring and enforcement program to ensure that the desired alternative mode use percentages are achieved. (Ord. 1432 § 2, 2010)

20.400.002 Applicability

The requirements of this chapter apply to all nonresidential development expected to generate 100 or more average daily trips, based on the Institute of Traffic Engineers (ITE) trip generation rates or a project seeking a floor area ratio (FAR) bonus. (Ord. 1432 § 2, 2010)

20.400.003 Performance Requirements

All projects subject to the requirements of this chapter shall incorporate measures that have a demonstrable effect of reducing the number of trips generated to achieve the minimum alternative mode use shown in Table 20.400.003.

**Table 20.400.003
Minimum Alternative Mode Use**

Project	Base District	Requested FAR	Minimum Alternative Mode Use (percent of total trips)
Nonresidential projects resulting in more than 100 average daily trips	All	n/a	28.0
FAR bonus request	Business and Professional Office	1.01 – 1.59	30.0
		1.60 – 1.99	36.5
		2.00 – 2.30	45.0
	Business Commercial and Freeway Commercial	0.51 – 0.69	30.0
		0.70 – 0.80	32.0
		0.81 – 0.90	35.0
	Hotels and Motels in Business Commercial and Freeway Commercial	1.21 – 1.49	30.0
		1.50 – 1.69	32.0
		1.70 – 1.80	35.0
	Business and Technology Park	0.51 – 0.69	30.0
		0.70 – 0.80	32.0
		0.81 – 1.00	35.0
		1.01 – 1.12	38.0
		1.13 – 1.25	40.0

(Ord. 1432 § 2, 2010)

20.400.004 Trip Reduction Measures

All projects subject to the requirements of this chapter shall implement the following measures as necessary to achieve the required minimum alternative mode use shown in Table 20.400.003. Guidelines regarding the range of alternative mode use achievable from each of the following measures are available from the Planning Division.

- A. **Required Measures.** All nonresidential development shall implement the following measures as determined appropriate by the Chief Planner.
 - 1. ***Carpool and Vanpool Ridematching Services.*** The designated employer contact shall be responsible for matching potential carpoolers and vanpoolers by administering a carpool/vanpool matching application. The application shall match employees who may be able to carpool or vanpool.
 - 2. ***Designated Employer Contact.*** Each applicant shall designate or require tenants to designate an employee as the official contact for the trip reduction program. The City shall be provided with a current name and phone number of the designated employer contact. The designated employer contact shall administer carpool and vanpool ridematching services, the promotional programs, update information on the information

boards/kiosks, and be the official contact for the administration of the annual survey and triennial report.

3. ***Direct Route to Transit.*** A well-lighted path or sidewalk shall be provided utilizing the most direct route to the nearest transit or shuttle stop from the building.
4. ***Guaranteed Ride Home.*** Carpool, vanpool and transit riders shall be provided with guaranteed rides home in emergency situations. Rides shall be provided either by a transportation service provider (taxi or rental car) or an informal policy using company vehicles/and or designated employees.
5. ***Information Boards/Kiosks.*** The designated employer contact shall display in a permanent location the following information: transit routes and schedules; carpooling and vanpooling information; bicycle lanes, routes and paths and facility information; and alternative commute subsidy information.
6. ***Passenger Loading Zones.*** Passenger loading zones for carpool and vanpool drop-off shall be located near the main building entrance.
7. ***Pedestrian Connections.*** Safe, convenient pedestrian connections shall be provided from the project to surrounding external streets and, if applicable, trails. Lighting, landscaping and building orientation should be designed to enhance pedestrian safety.
8. ***Promotional Programs.*** The following promotional programs shall be promoted and organized by the designated employer contact: new tenant and employee orientation packets on transportation alternatives; flyers, posters, brochures, and emails on commute alternatives; transportation fairs; Spare the Air (June — October); Rideshare Week (October); trip planning assistance-routes and maps.
9. ***Showers/Clothes Lockers.*** Shower and clothes locker facilities shall be provided free of charge.
10. ***Shuttle Program.*** Establish a shuttle program or participate in an existing program approved by the Chief Planner and subject to any fees for the existing program.
11. ***Transportation Management Association (TMA).*** The applicant shall participate or require tenant to participate in a local TMA, the Peninsula Congestion Relief Alliance (Alliance) or a similar organization approved by the Chief Planner, that provides ongoing support for alternative commute programs.

12. ***Bicycle Parking, Long-Term.*** The applicant shall install long-term bicycle parking in compliance with the requirements of the zoning district. Bicycle parking shall be located within 75 feet of a main entrance to the building and all long-term spaces must be covered. Long-term bicycle parking shall be achieved by providing one or more of the following measures:

- a. Parking in a locked, controlled access room or area enclosed by a fence with a locked gate;
- b. Lockers;
- c. Parking within view or within or within 100 feet of an attendant or security guard;
- d. Parking in an area that is monitored by a security camera;
- e. Providing fixed stationary objects that allow the bicycle frame and both wheels to be locked with a bicycle-locking device or the bicyclist supplying only a lock and six-foot cable;
- f. Additional measures may be approved by the Chief Planner.

13. ***Bicycle Parking, Short-Term.*** The applicant shall install short-term bicycle parking in compliance with the requirements of the zoning district. Bicycle parking shall be located within 100 feet of a main building entrance to the building. Security shall be achieved by using one or more of the same methods used for securing long-term bicycle parking.

14. ***Free Parking for Carpools and Vanpools.*** Ten percent of vehicle spaces shall be reserved for carpools or vanpools, with a minimum of one space required. Such spaces shall be provided in premium and convenient locations. These spaces shall be provided free of charge.

B. **Additional Measures.** The Chief Planner shall determine the appropriateness of each additional measure chosen by the applicant.

1. ***Alternative Commute Subsidies/Parking Cash Out.*** Employees shall be provided with a subsidy, determined by the applicant and subject to review by the Chief Planner if they use transit or commute by other alternative modes.
2. ***Bicycle Connections.*** If a site is abutting a bicycle path, lane or route, a bicycle connection shall be provided close to an entrance to the building on the site.

3. ***Compressed Work Week.*** The applicant shall allow employees or require their tenants to allow employees to adjust their work schedule in order to complete the basic work requirement of five eight-hour workdays by adjusting their schedule to reduce vehicle trips to the worksite.
4. ***Flextime.*** The applicant shall provide or require their tenants to provide employees with staggered work hours involving a shift in the set work hours of all employees at the workplace or flexible work hours involving individually determined work hours.
5. ***Land Dedication for Transit/Bus Shelter.*** Where appropriate, land shall be dedicated for transit or a bus shelter shall be provided based on the proximity to a transit route.
6. ***Onsite Amenities.*** One or more of the following amenities shall be implemented: ATM, day care, cafeteria, limited food service establishment, dry cleaners, exercise facilities, convenience retail, post office, on-site transit pass sales.
7. ***Paid Parking at Prevalent Market Rates.*** Parking shall be provided at a cost equal to the prevalent market rate, as determined by the City based on a survey of parking in North San Mateo County.
8. ***Reduced Parking.*** In accordance with General Plan Policies related to Transportation Demand Management, reduced parking, consistent with projected trip reduction identified in the preliminary TDM plan, may be permitted subject to approval of the Planning Commission.
9. ***Telecommuting.*** The applicant shall provide or require tenants to provide opportunities and the ability to work off-site.
10. ***Other Measures.*** Additional measures not listed in this chapter, such as childcare facilities and an in-lieu fee that would be negotiated in a development agreement with the City. (Ord. 1445 § 2, 2011; Ord. 1432 § 2, 2010)

20.400.005 Submittal Requirements All projects subject to the requirements of this chapter shall submit a preliminary trip reduction plan in conjunction with the development application. Said plans must demonstrate that, upon implementation, they will achieve the required alternative mode use and shall include the following.

A. Preliminary TDM Plan.

1. A completed checklist of the trip reduction measures chosen by the applicant pursuant to Section 20.400.004 (“Trip Reduction Measures”);

2. A description of how the applicable minimum alternative mode use will be achieved and maintained over the life of the project, including, but not limited to, the trip reduction goals targeted for the various measures. If the development has not achieved the required alternative mode use, the applicant shall provide an explanation of how and why the goal has not been reached and a detailed description of additional measures that will be adopted in the coming year to attain the required alternative mode use. Any and all additional measures must include an implementation schedule by month;
3. A site plan that designates trip reduction design elements including:
 - a. *External.* Preferential parking areas, paid parking areas, bicycle connections, location of onsite amenities, passenger loading areas, land dedicated for transit facilities and bus shelters, direct route to transit, and pedestrian connections,
 - b. *Internal.* Showers/lockers, information boards/kiosks, ATM, dry cleaners, day care, convenience retail, post office, cafeteria, limited food service establishment, exercise facilities, on-site transit pass sales. (Ord. 1445 § 2, 2011; Ord. 1432 § 2, 2010)

20.400.006 Review and Approval Process

- A. **Required Findings.** Prior to approval of a permit for a project subject to the requirements of this chapter, the Review Authority shall make the following findings:
 1. The proposed trip reduction measures are feasible and appropriate for the project, considering the proposed use or mix of uses and the project's location, size, and hours of operation; and
 2. The proposed performance guarantees will ensure that the target alternative mode use established for the project by this chapter will be achieved and maintained.
- B. **Actions by the Review Authority.** Prior to approval of a permit for a project subject to the requirements of this chapter, the Review Authority may:
 1. Reject the preliminary trip reduction plan because the findings in subsection A above cannot be made and require applicant to resubmit preliminary trip reduction plan;
 2. Approve a lower FAR bonus in order to make the findings in subsection A above; or

3. Impose conditions that are necessary to achieve and maintain the target alternative mode use.
- C. **Final TDM Plan.** The applicant shall modify the preliminary trip reduction plan and submit the final trip reduction plan including additional conditions imposed by the Review Authority as part of the building permit process. Prior to receiving a building permit, the final trip reduction plan shall be reviewed and approved by the Chief Planner to ensure all conditions imposed by the Review Authority have been addressed. (Ord. 1445 § 2, 2011; Ord. 1432 § 2, 2010)

20.400.007 Modifications and Changed Plans

- A. **Minor Modifications.** The Chief Planner may approve minor modifications to final trip reduction plans that are consistent with the original findings and conditions approved by the Review Authority and would result in the target minimum alternative mode use.
- B. **Changed Plans.** A change in an approved project that would result in the addition of 10 percent of the building area or a 10 percent increase in the number of average daily trips shall be treated as a new application. (Ord. 1432 § 2, 2010)

20.400.008 Monitoring and Enforcement

All projects are subject to an annual survey. Applicants seeking an FAR bonus are also subject to a triennial report and penalties for noncompliance.

- A. **Annual Survey.** An annual survey is required for all projects subject to the requirements of this chapter.
1. **Purpose.** The purpose of the annual survey is to report on the compliance of a project with the final trip reduction plan.
 2. **Survey Preparation.** The City or the City's designated representative shall prepare and administer the annual survey of participants in the trip reduction program.
 3. **Survey Specifications.** The survey shall be used to monitor all projects. The survey administrator shall use statistical sampling techniques that will create a 90 percent confidence in the findings.
 4. **Survey Report.** A report of the survey findings shall be presented annually to the Planning Commission and the City Council.

B. **Triennial Report.** A triennial report is required for all projects that receive a FAR bonus.

1. **Purpose.** The purpose of the triennial report is to encourage alternative mode use and to document the effectiveness of the final trip reduction plan in achieving the required alternative mode use.
2. **Triennial Report Preparation.** The triennial report will be prepared by an independent consultant, retained by City and paid for by applicant, who will work in concert with the designated employer contact.
3. **Submittal.** The triennial report shall be submitted every three years on the anniversary date of the granting of the certificate of occupancy for a building or facility.
4. **Response Rate.** The information for the triennial report shall be based on a survey response rate of 51 percent of employees working in the buildings. If the response rate is less than 51 percent, additional responses need to reach a 51 percent response rate will be counted as a drive alone trip.
5. **Required Alternative Mode Use.** The triennial report shall state whether the nonresidential development has or has not achieved its required percent alternative mode use. If the development has not achieved the required alternative mode use, the applicant shall provide an explanation of how and why the goal has not been reached and a detailed description of additional measures that will be adopted in the coming year to attain the required alternative mode use. Any and all additional measures must include an implementation schedule by month.
6. **Historical Comparison.** The triennial report shall include a comparison to historical responses on the survey and if a mode share has changed significantly, a detailed description as to why the mode share has changed.
7. **City Review.** The Chief Planner shall review all triennial reports. If at any time the reports indicate failure to achieve the stated policy goals, those reports will be submitted to the City Council.
8. **Penalty for Noncompliance.** If after the initial triennial report, the subsequent triennial report indicates that, in spite of the changes in the final trip reduction plan, the required alternative mode use is still not being achieved, or if an applicant fails to submit a triennial report at the times described above, the City may assess applicant a penalty. The penalty shall be established by City Council resolution on the basis of project size and actual percentage alternative mode use as compared to the percent alternative mode use established in the trip reduction plan.

9. ***Application of the Penalty.*** In determining whether a financial penalty is appropriate, the City may consider whether the applicant has made a good faith effort to achieve the required alternative mode use. If a penalty is imposed, such penalty sums shall be used by the City toward the implementation of the final trip reduction plan. (Ord. 1432 § 2, 2010)

20.400.009 Program Costs

Applicants shall be required, as a condition of approval, to reimburse the City for costs incurred in maintaining and enforcing the trip reduction program for the approved project. (Ord. 1432 § 2, 2010)

Appendix VV

City of Alexandria, Virginia

Zoning Ordinance – Supplement 63, Updated July 31, 2014

Sec. 11-700 - Transportation management special use permits.

11-701 - Purpose and intent.

- (A) There are certain land uses which, by their location, nature, size and/or density, or by the accessory uses permitted or required in connection therewith, or by certain operational or design and engineering characteristics, tend to cause traffic and related impacts which are contrary to the public health, safety and general welfare in that they lead to, generate or exacerbate: danger and congestion in travel and transportation upon the public streets, parking problems, harmful air pollution, wasteful energy consumption, excess noise, and other adverse impacts upon public and private transportation facilities, environmental quality, historic areas and other qualities of the city which make it a desirable, prosperous and attractive residential and commercial community. These uses present a disproportionate danger of such impacts relative to similar uses of a different size and density and to other uses permitted under this ordinance.
- (B) These uses may be allowed to locate within designated zones only under a special use permit, as provided in this section 11-700, which, through the imposition of pertinent conditions and requirements, shall ensure that the adverse and disproportionate traffic, transportation and related impacts of such uses are reduced to levels consonant with the public health, safety and general welfare, that surrounding land, structures, persons and property are adequately protected and that public and private transportation is facilitated.
- (C) The purpose of this section 11-700 is to mitigate the traffic, transportation and related impacts of such certain land uses through the requirement that a transportation management plan for such uses be prepared and that a special use permit be issued for such uses containing terms and conditions which require the implementation of an appropriate transportation management plan. The intent of the transportation management plan is to reduce single occupancy vehicle trips by:
- Encouraging other forms of travel, including transit use, ridesharing, walking and bicycling to accomplish that reduction through site-specific controls and conditions;
 - Leveraging and sharing planned or existing TMPs and conditions in neighboring uses;

- Fees paid to a citywide transportation demand management program;
- Additional measures or a combination thereof, all in coordination with the city's overall transportation demand management program, Transportation Master Plan, and the Transportation chapter of the City of Alexandria Master Plan.

11-702 - Transportation management plan program.

- (A) There is hereby created a transportation management plan (TMP) program designed to accomplish the purpose and intent of this section 11-700 by maximizing the mobility of all users by encouraging transit use, ridesharing, pedestrian and bicycle transportation to minimize single vehicle occupancy trips by motor vehicles and ensuring adequate transportation infrastructure and services to support future levels of development.
- (B) The TMP program shall consist of a citywide TMP (citywide TMP) as well as stand-alone TMP programs operated by individual developments.
- (C) The director of transportation and environmental services shall report on an annual basis to the transportation commission, the planning commission and city council on the status of the TMP program. The annual report shall be distributed to all developments that contribute to the city-wide and city-managed TDM fund.

11-703 - Transportation demand management fund.

- (A) There is hereby created a citywide, city-managed dedicated transportation demand management (TDM) fund (TDM fund) which will promote and create transportation alternatives to single occupancy vehicles that meet the goals of this section 11-700 and the transportation chapter of the City of Alexandria Master Plan.
- (B) Any payments made to the city as a result of the conditions or requirements of an approved TMP SUP shall be deposited into the city TDM fund.
- (C) Funds deposited into the city TDM fund shall be separately maintained and segregated and not subject to use other than for its approved program expenditures.
- (D) As part of its annual report on the status of the TMP program under section 11-702(B), the director of transportation and environmental services shall report on the status of the TDM fund, including how funds have been spent in the prior year and a proposed program of expenditures for the following year. After a public hearing and consideration by the transportation commission and the

planning commission, each commission shall make a recommendation to city council, which shall adopt an annual program of TDM expenditures for the city.

11-704 - Application of TMP program to development; required participation.

Each development for which a site plan is required pursuant to section 11-400 of this ordinance may be required to obtain approval of a TMP SUP, depending on its development tier and the requirements for participation outlined in this section 11-704

(A) *Development tiers.* The following development tiers represent a graduated level of development to which TMP requirements apply.

(1) *Tier one uses.* The following levels of development typically have a relatively low level of traffic and related impacts and are regulated as a tier one use.

- a) *Residential:* More than 20 but no more than 99 residential units;
- b) *Commercial or professional office space:* More than 9,999 but no more than 99,999 square feet of floor area.
- c) *Retail:* Either more than 9,999 but no more than 74,000 square feet of floor area or more than 3,000 square feet but no more than 10,000 square feet of floor area with more than 50 peak hour trips during either peak hour as defined in the administrative regulations authorized by section 11-709
- d) *Hotels:* 30 rooms or more; and
- e) *Industrial or warehouse:* 30,000 or more square feet of floor area.

(2) *Tier two uses.* The following levels of development typically have a moderately high level of traffic and related impacts and are regulated as a tier two use.

- a) *Residential:* More than 99 but no more than 349 residential dwelling units;
- b) *Commercial and/or professional office space:* More than 99,999 square feet but no more than 249,000 square feet of floor area; and
- c) *Retail space:* More than 74,999 square feet but no more than 149,000 square feet of floor area.

- (3) *Tier three uses.* The following levels of development typically have a very high level of traffic and related impacts and are regulated as a tier three use.
 - a) *Residential:* More than 349 dwelling units;
 - b) *Commercial and/or professional office space:* More than 249,999 square feet of floor area; and
 - c) *Retail space:* More than 149,999 square feet of floor area.
- (4) *Mixed uses.* For a development or building that includes more than one use, each use shall be separately assessed and the highest applicable tier shall apply to the whole development. If a development has more than one use in the same tier, then the next highest tier will be used to define the TMP development tier.
- (5) All other uses shall be exempt from the requirements of this section 11-700

(B) *Program participation based on tier status.*

- (1) *Participation.* Each TMP project, depending on its development tier, has the following requirements and options with regard to the type of TMP program in which it participates:
 - a) A tier one use shall be required to participate in the citywide TMP program.
 - b) A tier two use shall have the option, with the consent of the director of transportation and environmental services and approval of this special use permit, of participating in the citywide TMP program or operating its own stand-alone TMP and may be encouraged to partner with a neighboring use.
 - c) A tier three use shall create and operate its own stand-alone TMP and may be encouraged to partner with a neighboring TMP.
- (2) *Requirements with respect to participation in the city-wide TMP program.* Each development that is required to participate in the city-wide TMP program must comply with all conditions of the TMP SUP which at a minimum will include:
 - a) Designation of a TMP coordinator whose contact information shall be provided to the city;

- b) Regular payments will be made into the TDM fund in accordance with the TMP assessment as described in section 11-708 herein; and
 - c) Access to the property by the city in order to implement TDM measures such as surveys, mailings and hosting events to encourage participation.
- (3) *Requirements with respect to partnering.*
- a) A tier two or tier three use TMP partnership proposal shall be submitted jointly by both parties.
 - b) The proposal shall be reviewed and approved by the director of transportation and environmental services.
 - c) If a partnership is approved, each use involved in such a TMP partnership must still independently meet the requirements of its TMP, including independently submitting all required reports.

11-705 - Application for TMP special use permit.

- (A) *Application.* A TMP SUP application shall be filed pursuant to section 11-500 of this ordinance and consistent with the administrative guidelines authorized pursuant to section 11-709. The application shall be filed concurrently with the application for approval of a preliminary site plan for the same use as required by section 11-400 of this ordinance.
- (B) *Multi-modal transportation scoping requirement.* The application shall include a scoping form which shall conform to the guidelines established with the administrative regulations authorized by section 11-709 to determine whether a multi-modal transportation study will be required.
- (C) *Multi-modal transportation study requirement.* If a multi-modal transportation study is required it shall meet the requirements set forth in the administrative guidelines authorized by section 11-709 herein and at a minimum shall address the following:
 - (1) Vehicular transportation.
 - (2) Transit service.
 - (3) Bicycle and pedestrian facilities.
 - (4) Parking study and management plan required if parking reduction requested, unless otherwise exempted in the small area plan or other city council approved plan.
 - (5) Proposed transportation management plan.

- (D) *Proposed TMP.* The applicant shall propose a TMP as part of the application which shall conform to the guidelines established by administrative guidelines authorized by section 11-709, and shall at a minimum include the following:
- (1) Strategies that influence travel behavior by mode, frequency, time, route or trip length in order to reduce single vehicle occupancy trips.
 - (2) Specific program components which may include, but are not limited to, a combination of the following: subsidies for transit, carpool, vanpool and shuttles; parking for carpool and vanpool vehicles; carshare or rideshare programs; marketing; teleworking facilities; bicycle facilities.

11-706 - Action by city council.

- (A) In reviewing an application for a special use permit under this section 11-700, the city council shall consider the traffic, transportation and related impacts of the proposed use, the applicable factors listed in section 11-504, and the following characteristics of the proposed use that will determine or affect the extent of those impacts:
- (1) Whether the SUP will encourage the use of travel modes other than single occupancy vehicles and reduce the peak hour traffic impacts associated with new development;
 - (2) Whether the SUP will maximize the mobility of pedestrians, transit users, bicyclists and motor vehicles and create an integrated, multimodal transportation system that is accessible and safe for all users;
 - (3) Whether the SUP will maintain the viability of its commercial centers, neighborhoods and growth areas by providing adequate transportation infrastructure and services to support future levels of development; and
 - (4) Whether the SUP will minimize vehicular impacts associated with new development.
- (B) The city council may approve an application for a special use permit under this section 11-700 if it determines (i) that the applicant's transportation management plan is in accord with the requirements of this section 11-700, (ii) that the transportation management plan, together with any amendments deemed appropriate by council, demonstrates that reasonable and practicable actions will be taken in conjunction with and over the life of the proposed use which will produce a measureable reduction in the traffic and transportation impacts consistent with the mode share target as set forth in the TMP SUP, (iii) and that

those actions, strategies and programs will be taken in conjunction and coordination with the city's transportation demand management program.

11-707 - Conditions and requirements.

In approving a TMP SUP under this section 11-700, city council may impose such reasonable conditions and restrictions that it determines are necessary and desirable to ensure that the use will further the intent of this section 11-700, the applicable factors of section 11-504, and the factors listed in sections 11-706(A). Such conditions shall include such operational activities and fee payments designed to achieve successful transportation demand management, including at a minimum the following:

- (A) *Coordinator.* Each TMP project shall appoint a coordinator responsible for the implementation of the TMP and for coordination with the city.
- (B) *Surveys.* Each TMP project that is not part of the citywide TMP program shall be responsible for surveying its residents, tenants, and employees on an annual basis to determine the success of the TMP. The TMP project must demonstrate a good faith effort to achieve response rate targets as set forth in the TMP SUP for the project.
- (C) *Reviews.* Each TMP shall be required to report annually on its activities under the TMP and shall be reviewed by the city to determine its TMP compliance.
- (D) *TMP assessment.* Each TMP will be required to pay a TMP annual assessment pursuant to section 11-708

11-708 - TMP assessment schedule and adjustments.

Each TMP shall be required to make a monetary payment at a given rate based on the development type and size. The payment shall be made either into the TMP fund for the individual project or into the city TDM fund, depending on the program participation of the development as defined by section 11-704 herein. The amount of the payment shall be based on a standardized rate as that rate may be modified as provided herein.

- (A) The base rate applicable to all TMPs subject to the assessment as of March 15, 2014 is as follows:

Residential	\$81.12 per dwelling unit
Commercial	\$0.254 per square foot of floor area
Retail	\$0.203 per square foot of floor area
Hotel	\$40.56 per room
Industrial	\$0.101 per square foot of floor area
Land Use	Base Rate in FY14

- (B) The base assessment rate will be adjusted on an annual basis on July 1 of each year in accordance with the Consumers Price Index (CPI-U) as reported by the United States Department of Labor, Bureau of Labor Statistics. The base assessment rate in effect at the time of the project's first certificate of occupancy permit (CO) is the applicable rate for the project.
- (C) If any part of the TMP project is within 1,000 feet walking distance of a Metrorail station entrance or a BRT/fixed transit station entrance (station entrance), on a fully operational corridor, a 20 percent reduction from the base assessment rate will be applied. If the TMP project is within 1,500 feet of a station entrance, a 15 percent a reduction from the base assessment rate will be applied.

11-709 - Administrative guidelines.

The director of transportation and environmental services is hereby authorized to promulgate administrative guidelines to supplement this section 11-700 and to facilitate the TMP program. The guidelines shall be consistent with the provisions of this section 11-700. They shall include the city's technical assumptions, specifications, submission requirements, and expectations for applicants and participants in the TMP program and shall be designed to provide guidance to applicants and their professional consultants and to facilitate participation by applicants and coordination between development applicants and staff. The guidelines shall be approved initially by city council and any subsequent changes to the guidelines shall be made part of the annual reporting required under section 11-702(B).

11-710 - Reserved.

11-711 - Enforcement and civil penalties.

- (A) Compliance required. Each TMP project is required to comply with all conditions of its TMP SUP and with the provisions of this section 11-700 and compliance will be assessed on a regular basis as part of required review of the TMP by the city.

- (B) Failure of a TMP project to comply with its approved TMP shall result in the assessment of civil penalties or revocation of the approved TMP SUP as follows:
- (1) A violation of a TMP SUP condition may result in the following cumulative penalties, which may be accrued in any given 12-month period as follows:
 - (a) If the director of transportation and environmental services determines that a violation of the TMP SUP has occurred, he or she may cause a notice of violation to be served on any such person committing or permitting such violation. Such notice shall give 30 days for the violation to be corrected.
 - (b) If the 30-day compliance period elapses and the violation of the TMP SUP arising from the same set of operative facts continues, a notice of violation with civil penalty in the amount of five percent of the use's annual financial obligation as provided in the SUP conditions, up to a maximum of \$5,000.00, may be assessed. Such notice shall include an additional 30-day compliance period to correct the violation.
 - (c) If, after the compliance period in section 11-711(B)(1)(b) elapses, the violation of the TMP SUP arising from the same set of operative facts continues, a notice of violation with a civil penalty in the amount of 10 percent of the use's annual financial obligation as provided in the SUP conditions, up to a maximum of \$5,000.00 may be assessed. Such notice shall include an additional 30 day compliance period to correct the violation.
 - (d) If, after the compliance periods provided in section 11-711(B)(1)(b) and (c) elapses, the violation of the TMP SUP arising from the same set of operative facts continues, a notice of violation with a civil penalty in the amount of 15 percent of the use's annual financial obligation as provided in the SUP conditions, up to a maximum of \$5,000.00 may be assessed.
 - (2) If after assessment of three civil penalties, any use continues to fail to comply with a condition of its approved TMP, the use may be required to participate in the citywide TMP program, may be subject to increased review and reporting requirements and may be subject to a staff recommendation for action by the city council revoke the TMP SUP pursuant to section 11-205 of this ordinance.

11-712 - Permit validity and modification.

- (A) Each special use permit issued pursuant to the provisions of this section 11-700 shall expire and become null and void concurrently with the expiration of the site plan approved in connection therewith as provided in section 11-400
- (B) The enlargement, extension or increase of more than five percent in the floor area expressed in square feet of any use for which a special use permit has been issued under the provisions of this section 11-700 shall require an application for and approval of a new or amended special use permit governing the entire use as enlarged, extended or increase.
- (C) In the case of a mixed-use building or structure for which a special use permit has been issued under this section 11-700, any modification of the mixture of uses which increases or decreases the amount of square feet utilized by the dominant use by more than 20 percent shall require an application for and approval of a new or amended special use permit governing the entire building or structure as modified.

11-713 - Nonconforming use status and related matters.

- (A) No individual building or structure, otherwise subject to the provisions of this section 11-700, which is in existence on May 16, 1987, or for which a preliminary site plan approved on or before May 16, 1987, continues in force and effect, shall be deemed a nonconforming or noncomplying use by virtue of any provision of this section 11-700, nor shall any such building or structure be subject to the provisions of this section 11-700
- (B) Any TMP SUP granted after May 16, 1987 and before March 15, 2014 remains in full force and effect. No individual building or structure, otherwise subject to the provisions of this section 11-700, which is in existence on March 15, 2014, or for which a preliminary site plan approved on or before March 15, 2014, continues in force and effect, shall be deemed a nonconforming or noncomplying use by virtue of any provision of this section 11-700, nor shall any such building or structure be subject to the provisions of this section 11-700
- (C) Any other provision of law to the contrary notwithstanding, the owner, contract purchaser or lessee, or any authorized agent of such party in interest, of any individual building or structure or project, complex or development which is or becomes a lawful nonconforming or noncomplying use under the provisions of this section 11-700, may file an application for the issuance of a special use permit under the provisions of this section 11-700

11-714 - Administration.

- (A) The director shall administer the provisions of this section 11-700 and shall consult and coordinate with the directors of transportation and environmental services and of the transportation planning division and such other divisions of the city government as may be appropriate.

- (B) The fee for filing and processing a special use permit application shall be according to that prescribed by section 11-104 and such fee shall be in addition to any other fees required under this ordinance.

(Ord. No. 3923, § 8, 4-12-97; Ord. No. 4864, § 1, 3-15-14)

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Appendix WW

City of Bend, Oregon

Section 4 Applications and Review Procedures

Section 4.7 Transportation Analysis

Section 4.7.500 Mitigation Requirements / Conditions of Approval

Section 4.7.5.F. Reduce Impacts with a Travel Demand Management (TDM) Program

, intersections on ODOT facilities will standards, which are typically a higher currency requirements may vary with nsidered in the study process. City will apply as a minimum on ODOT

Table 4.7.400a Signalized Intersection Operations Standards		
Intersection Status/Jurisdiction	City of Bend Operations Standards	ODOT Operations Standards and Concurrency
Built to TSP/Master Plan; within CB/historic district	v/c less than 1.0 for hour preceding and following Peak Hour	N/A
Built to TSP/Master Plan; outside of CB/historic district	v/c less than 1.0 for hour preceding and following Peak Hour	City Operations Standards and ODOT Mobility Standards or Concurrency Standards
Not Built to TSP/Master Plan; within CB/historic district	v/c less than 1.0 for hour preceding and following Peak Hour	N/A
Not Built to TSP/Master Plan; outside of CB/historic district	v/c less than 1.0 for Peak Hour	City Operations Standards and ODOT Mobility Standards or Concurrency Standards

C. Pro-rata Share Contributions. Each development shall contribute its proportional share to the costs of the transportation system that will be required as a result of the cumulative impact that various developments combined will have on the system, regardless of whether the impact of an individual development would by itself cause a facility to fall below the operations standards set forth above. Developments shall be required to contribute their proportional share for all intersections within the study area as well as mitigate operations as described below.

4.7.500 Mitigation Requirements/Conditions of Approval

The transportation impact analyses for each of the study time frames need to show compliance with the operations criteria listed above, or the applicant will be required to mitigate to bring the operations into compliance. Mitigation shall be in compliance with City of Bend Standards and Specifications, the Bend Urban Area Transportation System Plan and the requirements of the Bend Development Code.

Exception: The 5-Year projected analyses are used only for planning purposes and will not require mitigation.

If mitigation is identified as being necessary, but cannot be imposed due to rough proportionality limitations, the City of Bend may deny the application or require modifications to limit impacts.

Concurrency for the City of Bend requires that the mitigation be in place at the time of final platting of the residential subdivision (or individual phases of the residential subdivision), or at the time of occupancy permits for commercial, industrial, duplex, tri-plex buildings, and all other non-single family buildings.

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Exception: Construction of emergency service access requirements may be needed earlier.

Requirements for Existing Year Traffic, Year of Completion of each phase, and Year of Completion of each phase plus Project. Mitigations shall:

- comply with applicable requirements and design elements of the City of Bend Development Code and the Bend Urban Area Transportation System Plan and regional transportation system plan;
- meet appropriate installation warrants (all-way stop warrants for both all-way stop and roundabout installations, traffic signal warrants for new signal installations, and left or right turn lane warrants);
- have the least negative impact on all applicable transportation facilities;
- be shown to operate the best of similar threshold mitigations for the intersection itself as well as for the corridor as a whole; and
- have construction plans approved by the City Engineer.

Requirements for Transportation Planning Rule Analyses Years shall:

- be included in the Bend Urban Area Transportation System Plan at the time of final platting of the subdivision (or individual phases of the subdivision), or at the time of commercial building permits;
- have the least negative impact on all applicable transportation facilities;
- be shown to operate the best of similar threshold mitigations for the intersection itself as well as for the corridor as a whole; and
- comply with applicable requirements and design elements of the City of Bend Development Code and the Bend Urban Area Transportation System Plan and regional transportation system plan.

The following mitigation measures are acceptable to such an extent that the concurrency standard can be achieved.

A. Construct Transportation System Operations Mitigation

Operations mitigations shall include the construction of the full intersection infrastructure and control, to bring the intersection into compliance with the Bend Urban Area Transportation System Plan. Intersection improvements of this nature will be identified by the City Engineer or designee.

Proposed new traffic signals shall show concurrency operations as well as improved corridor operations in terms of signal progression and reduced corridor delay, and be shown to cause no significant adverse impact to the corridor during integrated corridor operations. The City Engineer and the Oregon Department of Transportation Region 4 Transportation Manager or their designees must approve design of all new traffic signals.

Mitigation in the form of roadway widening shall be constructed in conformance with the roadway classification of the Bend Urban Area Transportation System Plan, and the cross-sections as set forth in the City of Bend Development Code in Chapter 3.4; Public Improvement Standards, including sidewalks, bike lanes, medians and total roadway widths. Roadways wider than 5 lanes are not approvable at this time.

Mitigation in the form of intersection widening shall be constructed in conformance with the Transportation System Plan designation widths. Right turn lanes, when approved by the City Engineer and Region 4 ODOT Traffic Manager, or their designees, proposed for intersection

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operations mitigation, shall be implemented with appropriately designed pedestrian island refuges in compliance with City and/or ODOT standards.

Operations mitigations shall not include widening to accommodate additional travel lanes for the following situations:

- roadways that are already constructed to the widths consistent with the Bend Urban Area Transportation System Plan;
- roadways located within or directly adjoining the City's Central Business Zone; and
- intersections and roadways located within or directly adjoining a historic overlay zone or historic district.

The City acknowledges that in certain situations, no physical mitigation may be available to improve intersection operations to the operations criteria. In these situations, other forms of mitigation shall be proposed by the applicant as discussed below and conditions of approval will be created to minimize the application's impact on the intersections in question.

B. Construct Interim Transportation System Operations Mitigation

Applicants may choose to construct interim operations mitigations, as approved by the City Engineer, that will bring the intersection into concurrency compliance with the operations standards outlined in this Chapter of the Bend Development Code, and, as well, pay their proportionate share towards the full intersection infrastructure to bring the intersection into compliance with the Bend Urban Area Transportation System Plan as described above.

Interim operations mitigations may include the construction of additional turn lanes, additional travel lanes, upgraded operations controls, etc., considering the following limitations and requirements.

Interim mitigation in the form of improved signal timing and phasing may be achieved by installing the necessary communications and field equipment that would provide the increased capacity necessary to achieve the concurrency standards. The applicant needs to demonstrate through a field calibrated corridor operations model (approved by the City Engineer or designee) that the proposed signal timing and phasing changes will provide the additional capacity necessary to meet the concurrency standards. The City Engineer and the Oregon Department of Transportation Region 4 Transportation Manager or their designees must approve timing and phasing, communications and field equipment.

Proportionate share calculations will be calculated based on the ratio of development trips to growth trips for the anticipated cost of the full Bend Urban Area Transportation System Plan intersection infrastructure. The calculation is provided herein:

$$\text{Proportionate Share Contribution} = \frac{[\text{Net New Trips}/(\text{Planning Period Trips}-\text{Existing Trips})] \times \text{Estimated Construction Cost}}{\text{Estimated Construction Cost}}$$

Where net new trips are the total entering trips that are proposed to be added to the Study area intersection by the development; estimated construction cost is the cost to construct the master planned infrastructure from the transportation system plan in today's dollars.

C. Limit Proposed Land Uses

When impacts are greater than can be mitigated by the applicant due to rough proportionality limitations, the applicant may need to reduce the proposed trip generation by restricting uses within the site or by applying for a more appropriate land use to achieve the concurrent operations

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standards. The Transportation Impact Study will need to show that the proposed limitations will be adequate to reduce the trips and bring the transportation system into compliance with the operations criteria.

D. Amend Bend Urban Area Transportation System Plan to add Arterial and/or Collector Facilities

In cases where mitigation is necessary, but would require widening of a roadway or an intersection beyond the limits allowed in the Bend Urban Area Transportation System Plan or the City of Bend Development Code, the applicant may choose to provide additional off-site capacity by amending the Transportation System Plan to include additional arterial or collector routes. The applicant's Transportation Impact Study will need to show that the proposed mitigation will be adequate to redistribute the transportation system's trips and bring the transportation system into compliance with the Operations Standards. In this case, unless the proposed roadways are contained within the development's site, the proposed mitigation (alternate route(s)) would not need to be physically constructed, but the Bend Urban Area Transportation System Plan amendments must have been approved prior to approval of the land use application.

E. Amend Bend Urban Area Transportation System Plan to Provide Alternative Transportation Elements

In cases where mitigation is necessary, but would require widening of a roadway or an intersection beyond the limits allowed in the Bend Urban Area Transportation System Plan or the City of Bend Development Code, the applicant may choose to provide additional capacity by amending the Transportation System Plan to include additional off-site trail, pedestrian or transit facilities. The Transportation Impact Study will need to show that the proposed additional off-site trail, pedestrian, or transit facilities will be adequate to enhance mode splits sufficiently to bring the transportation system into compliance with the operations criteria. In this case, unless the proposed elements are contained within the development's site, the proposed mitigation would not need to be physically constructed, but the Bend Urban Area Transportation System Plan amendments must have been approved prior to approval of the land use application.

F. Reduce Impacts with a Travel Demand Management (TDM) Program

The applicant may choose to develop a TDM program to reduce net new trip generation for a proposed project when trip reductions are necessary to minimize off-site mitigation requirements. Proposed elements of the TDM program will be evaluated to determine trip reduction rates. The following trip reduction rates shall be applied if a TDM program with these elements were to be developed by the applicant:

- Provide employee showers, lockers, and secure bike parking according to requirements of the Bend Development Code - five percent (5%) trip reduction;
- Project is located within ¼ mile of a transit route – five percent (5%) trip reduction;
- Project is located within ¼ mile of a transit route and employer provides free or significantly reduced monthly bus passes to employees - ten percent (10%) trip reduction;
- Project provides free priority parking for carpools/vanpools – five percent (5%) trip reduction;
- Project provides free priority parking for carpools/vanpools but fee non-priority parking for other employees - ten (10%) trip reduction;
- Other TDM elements as approved by the City Engineer;

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- Maximum trip reduction for combined TDM program elements - twenty-five (25%) trip reduction.

The Transportation Impact Study will need to show that the proposed trip reductions will be adequate to reduce the development's trips and bring the transportation system into compliance with the operations criteria. A modification to the original site plan approval would need to be obtained if TDM program elements change significantly.

Chapter 21: Zoning and Land Development

SEC. 21.301.09. Transportation Demand Management (TDM).

(a) **Purpose and intent.** The purpose of Transportation Demand Management (TDM) is to promote more efficient utilization of existing transportation facilities, reduce traffic congestion and mobile source pollution, and to ensure that new developments are designed in ways to maximize the potential for alternative transportation usage. TDM is a combination of services, incentives, facilities and actions that reduce single occupancy vehicle (SOV) trips to help relieve traffic congestion, allow parking flexibility, and reduce air pollution.

(b) **Applicability.** Recognizing that development size and land use type directly affect traffic generation, the City has established two levels of TDM program applicability:

(1) A Tier 1 TDM program is required for all new development and/or redevelopment consisting of:

(A) New developments where the City Code requires the provision of more than 350 parking spaces attributable to office, institutional, industrial, and warehouse uses;

(B) New non-residential developments seeking flexibility from the standard parking requirements in accordance with City Code Section 21.301.06(e)(3);

(C) Redevelopment and/or additions to existing non-residential development that result in a 25 percent or greater increase in parking spaces attributable to office, institution, industrial, and warehouse uses, and the total amount of required parking attributable to office, institution, industrial, and warehouse uses is 350 or more spaces; or

(D) Other development as required by City Council condition.

(2) A Tier 2 TDM program is required for new non-residential development, non-residential redevelopment, and/or additions to existing development over 1,000 square feet in floor area, provided a Tier 1 TDM program is not required.

(3) The following uses shall be exempt from Tier 1 TDM program requirements:

(A) Places of assembly;

(B) Schools (K-12);

(C) Parks and recreational facilities; and

(D) Other institutional uses that are not customarily in operation between the peak weekday traffic period (6:30-9:00 AM and 3:00-6:00 PM).

(c) **TDM Plan Requirements.** Mandatory TDM Plan requirements for the two levels include:

(1) Tier 1 TDM Program.

(A) A TDM study prepared by a qualified traffic consultant that includes:

(i) A description of the projected transportation and parking impacts of the development at full site development, forecasts of SOV trips generated and the likely timing of those trips, and anticipated parking demand. The TDM study must be conducted in accordance with accepted methodology approved by the Director of Public Works or the Director's designee. If determined to be a Special Study subject to the requirements of City Code Section 19.14(b)(5), the traffic study must be prepared by an independent traffic engineering professional under the supervision of the Director of Public Works or the Director's designee, and paid for by the applicant.

(B) A TDM plan prepared by the property owner that includes:

(i) A description of the TDM goals, including peak hour SOV trip reduction goals;

(ii) Description of TDM strategies and implementation measures and the anticipated SOV trip reduction associated with each strategy. The TDM measures may include, but are not limited to: on-site transit facilities, preferential location of car and van pool parking, telecommuting, on-site bicycle and pedestrian facilities and employer subsidized transit passes;

(iii) Description of the evaluation measures and process that will be used to determine the effectiveness of the TDM strategies used and progress toward achieving the SOV trip reduction goals; and

(iv) Proposed total expenditures to implement the TDM strategies for at least three years following the issuance of the Certificate of Occupancy.

(C) A TDM agreement prepared by the City Attorney's office, executed by the property owner and the City, and filed by the property owner with the records for that property in the Registrar of Titles' or Recorder's Office of Hennepin County with proof thereof presented to the Issuing Authority prior to issuance of a building permit;

(D) A financial guarantee in the amount established by the TDM program schedule set forth in the TDM Policies and Procedures Document maintained by the Director of Public Works; and

(E) An annual status update report in the format specified in the TDM Policies and Procedures Document maintained by the Director of Public Works, or otherwise approved by the Director or the Director's designee, hereinafter referred to as the "Annual Status Report".

(F) In the event that an existing and active City of Bloomington approved TDM program exists for a site, the Tier 1 requirements may take the form of amendments to the existing document rather than a separate new document.

(2) Tier 2 TDM Program.

(A) Prior to issuance of a building permit, a basic Tier 2 TDM Plan describing the TDM strategies the property owner agrees to implement to reduce peak SOV trip generation that is prepared in the format specified in the TDM Policies and Procedures Document maintained by the Director of Public Works or otherwise approved by the Director or the Director's designee.

(d) **Financial Guarantee.** The property owner must provide a financial guarantee prior to the issuance of the Certificate of Occupancy to ensure implementation of TDM strategies and progress towards meeting the approved TDM Plan goals when a Tier 1 TDM plan is required. The financial guarantee rate is established by the TDM program schedule set forth in the TDM Policies and Procedures Document maintained by the Director of Public Works. The financial guarantee may be provided in the form of cash, bond or a letter of credit at the discretion of the property owner.

The City will retain the cash payment, bond or letter of credit for two years from the date the property owner verifies that occupancy of the leasable area of the development has reached 30 percent. This date shall hereinafter be referred to as the "Initial TDM Plan Implementation Date".

(e) **Administration.** The Director of Public Works or the Director's designee will administer Tier 1 and Tier 2 TDM plans, including, but not limited to:

- (1) Review and approval of TDM plans;
- (2) Maintenance of files for approved TDM plans;
- (3) Monitoring progress toward implementation of TDM strategies and evaluating success of efforts to achieve TDM plan goals;
- (4) Holding and releasing TDM financial guarantees; and
- (5) Determining compliance in implementing TDM strategies as that relates to the release or forfeiture of TDM financial guarantees.

(f) **Compliance.** A property owner or its successors and assigns must demonstrate a good faith effort to implement strategies described in an approved Tier 1 TDM Plan by submitting an Annual Status Report within 30 days of the one year and two year anniversary dates of the Initial TDM Plan Implementation Date. The Director of Public Works or the Director's designee will review the Annual Status Reports, within 30 days of receipt, to determine if a good faith effort has been made to implement the strategies described in an approved Tier 1 TDM Plan or otherwise achieve the approved TDM Plan goals. The Annual Status Report must include at least the following:

(1) Results of the survey questions included in the TDM Annual Status Report model specified in the TDM Policies and Procedures Document maintained by the Director of Public Works, compiled using the model format or a format otherwise approved by the Director of Public Works or the Director's designee, to determine the effectiveness and participation in TDM strategies;

(2) Documentation of annual expenditures made to implement TDM strategies; and

(3) Documentation of the implementation of TDM strategies listed in the approved Tier 1 TDM Plan and an evaluation of the success of each strategy based on the survey results, as well as, at the option of the property owner, any other verifiable method of measurement such as a follow-up traffic study.

(g) Release of the TDM Financial Guarantee. If the property owner or its successors and assigns demonstrates a good faith effort to implement the strategies set forth in the approved Tier 1 TDM Plan as demonstrated by the data contained in the consecutive Annual Status Reports, the TDM financial guarantee will be released to the property owner within seven working days of that determination by the Director of Public Works or the Director's designee.

(h) Forfeiture of the TDM Financial Guarantee. Failure to comply with the provisions of an approved Tier 1 TDM plan constitutes a violation of this Section of the City Code.

(1) If the property owner or its successors or assigns fails to submit timely Annual Status Report that document a good faith effort to implement the strategies set forth in their approved Tier 1 TDM Plan, the Director of Public Works or the Director's designee may direct that the TDM financial guarantee continue to be held for a period of up to another 12-months at the end of which an additional Annual Status Report must be submitted. The TDM financial guarantee at the end of the additional period will be either released or forfeited based upon the Director of Public Works or the Director's designee's determination of whether or not the property owner has demonstrated a good faith effort to implement the TDM strategies set forth in the approved TDM Plan or otherwise achieve the TDM Plan goals.

(2) If the Director of Public Works or the Director's designee determines on the basis of the Annual Status Reports that the failure to implement the strategies set forth the Tier 1 TDM Plan or otherwise achieve the TDM Plan goals is attributable to inexcusable neglect on the part of the property owner or its successors and assigns, the financial guarantee will be immediately forfeited to the City.

(i) Appeals. The property owner or its successors or assigns may appeal the forfeiture or continued holding of the TDM financial guarantee or imposed sanctions to the City Council within 30 days following the mailing of the notice of forfeiture, continued holding or sanctions. The City will provide the appellant with at least ten days notice of the time and place of the hearing before the City Council.

(Added by Ord. No. 2009-40, 12-7-2009; Amended by Ord. No. 2013-2, 2-25-2013)



Director's Rule 10-2012

Applicant: City of Seattle Department of Planning and Development	Page 1 of 12	Supersedes: DR 9-2010
	Publication: 8/9/2012	Effective: 9/28/2012
Object: Transportation Management Programs	Code and Section Reference: Seattle Municipal Code (SMC) Chapters 23.04.040, 23.47A.012, 23.49.019, 23.50.051, 23.49.019, 23.50.051, 23.52.008, 23.54.015, 23.54.016, 23.69.030, 23.69.034, 23.69.035, 23.71.018, 23.90, 25.05.675	
	Type of rule: Code Interpretation	
	Ordinance Authority: SMC 3.06.040	
Index: Land Use Codes/Environmental	Approved	Date
	(Signature on file) Diane M. Sugimura, Director, DPD	9/26/2012

I. Purpose

The goal of a Transportation Management Program (TMP) is to reduce trips and/or parking impacts of a development project through the implementation of physical improvements and operational measures. This Rule establishes the responsibilities of property owners, applicants and proponents of projects (hereafter referred to as the "applicant") subject to the Land Use Code and/or SEPA requirements to develop a TMP. This Rule also identifies the ordinance authority and establishes the content, procedures, compliance, and reporting requirements of TMPs.

Coordination with other requirements and processes

The Department of Planning and Development (DPD) and the Seattle Department of Transportation (SDOT) coordinate the requirements of TMPs and Washington State's Commute Trip Reduction (CTR) Law. Entities affected by the CTR law are not exempt from implementing a TMP.

TMP Elements that provide physical building or frontage improvements (infrastructure) should be coordinated with the City's Design Review process, when applicable.

The City will review TMP Elements to help ensure consistency with other applicable studies and plans, such as the City of Seattle Comprehensive Plan, the Transportation Strategic Plan and the Bicycle, Pedestrian, and Transit Master Plans.

II. Background and Authority

Seattle's Environmental Policies and Procedures in SMC Chapter 25.05, which implement the State Environmental Policy Act (SEPA), authorize DPD to grant, condition or deny land use permit applications for construction and use for public or private proposals that are subject to environmental review. These are typically referred to as a "MUP" (Master Use Permit).

DPD may exercise its authority to grant a permit subject to TMP conditions. The purpose of these conditions is to mitigate the adverse traffic or parking impacts identified in the City's SEPA environmental review or other Land Use Code-required reviews. The published Director's Decision on the MUP, or other permit decision, will specify the TMP goal, if a TMP is required.

In addition to the City's general SEPA authority, there are other regulations that relate to TMPs. These sections of the Seattle Municipal Code are listed below.

- Major Institutions (see SMC 23.84A.025)
- Northgate Overlay District (see SMC 23.71)
- Transportation Impact Mitigation for certain proposals not subject to SEPA environmental review (see SMC 23.52.008)

Failure to comply with TMP conditions or to achieve the goals established by the TMP shall be a violation of this Rule and the SMC. Violations shall subject the property owner to enforcement action, including civil penalties as provided by the SMC.

III. TMP Process and Responsibilities

The following table outlines typical steps and responsibilities associated with the City's actions to establish and monitor compliance with the conditions listed in a TMP and the applicant's responsibility for establishing and maintaining the TMP.

Table 1. Steps for Establishing and Implementing a TMP

Steps	Responsible Party
1. Before DPD issues a MUP (or other permit) for any project requiring a TMP, the property owner(s) shall record his/her acknowledgment of the	Applicant

permit conditions in the manner prescribed by the City (Attachment A).	
2. DPD publishes a Director's Decision (or other permit) with conditions requiring a TMP to mitigate traffic and/or parking impacts. DPD will specify the TMP goal.	DPD
3. In consultation with the City, the applicant prepares a TMP stating the goal and detailing the elements that will be implemented to achieve the goal. A standard form for the TMP will be provided by DPD. Physical elements required by the Director's Decision should be both listed in the TMP and included on plans for the project's building permit. The applicant submits this draft TMP to DPD and SDOT.	Applicant
4. DPD and SDOT review the draft TMP and building permit plans to ensure compliance with the Director's Decision. The City may request additional elements or modification of proposed elements to ensure the TMP goal can be met. Following any necessary revisions, DPD and SDOT will approve the applicant's TMP.	DPD & SDOT
5. The Applicant records the City-approved TMP with King County Records and Elections Division, and submits a copy of the recorded TMP to DPD and SDOT. Typically, the building permit cannot be issued until the TMP is recorded, as provided in the MUP Decision.	Applicant
6. The applicant provides tenants, agents and representatives with a copy of the TMP, and requires them to comply with its conditions.	Applicant
7. The City shall establish a reporting schedule. The applicant shall conduct TMP-required surveys and produce regular reports (at the applicant's expense) in a manner and form prescribed by the City.	Applicant
8. SDOT is responsible for monitoring compliance with the TMP requirements established by the Director's Decision. The applicant shall facilitate the City's inspections of the site and program materials.	DPD, SDOT & Applicant
9. The DPD Director may require revisions to the TMP in order to meet the TMP goal. Revisions are addressed in Section VI of this Rule. The Director may also pursue enforcement actions as provided by the Seattle Municipal Code. Whenever the City requires changes to a TMP the applicant must (1) submit a letter acknowledging the changes, (2) record copies of the new documents with the King County Records and Elections Division, and (3) file copies of the letter and revised TMP or Memorandum of Agreement with SDOT and DPD.	DPD, SDOT & Applicant

IV. TMP Composition

TMPs consist of a goal and a list of program elements. The applicant is expected to implement all program elements needed to meet the TMP Goal.

Explanatory note: Table 2 identifies elements as 'required', 'highly recommended' or 'location-dependent.' Each of these elements is defined more fully in Section VII. After the TMP is approved, all elements in the TMP become required elements.

This section explains the "goal" and the "elements."

A. TMP Goal. The City establishes the TMP goals to mitigate traffic and/or parking impacts of the project. Examples of a goal include "No more than X% of the trips shall be made by single-occupant vehicles," or "No more than X number of vehicles will park on public streets."

B. Program Elements. Unless specifically modified in the Director's Decision, TMP elements shall include all required program elements. These are listed in Table 2. Other TMP elements may be necessary to meet the TMP Goal. Further definitions of all program elements are provided in Section VII of this Rule.

The applicant and the City may develop new or modified TMP elements that are not listed in this Rule. All TMP elements, whether listed in this Rule or not, must be described in sufficient detail to define the responsibility of the applicant and clarify the intent of the element.

Table 2. TMP Elements

	TMP Elements	Required for All Projects	Highly Recommended	Location Dependent
Building and Frontage Features (Physical Improvements)				
1	Install commuter information center in appropriate location	√		
2	Construct infrastructure improvements that are consistent with the City's <i>Design Guidelines</i> related to the transit and pedestrian environment		√	
3	Provide on-site shower and locker facility		√	
4	Reduce parking supply below market demand rate for the type of land use and location			√
5	Install pedestrian wayfinding signs			√
6	Provide more bicycle parking than required by code			√
7	Provide bicycle storage and amenities that meet City performance standards.			√

TMP Elements		Required for All Projects	Highly Recommended	Location Dependent
Management & Promotion				
8	Appoint Building Transportation Coordinator (BTC)	√		
9	Produce and distribute a commuter information packet	√		
10	Require tenant participation in the TMP	√		
11	Submit regular reports about TMP elements as required by the City	√		
12	Conduct biennial survey of TMP effectiveness in a form and manner established by DPD and SDOT	√		
13	Participate in a transportation management association, where available			√
14	Participate in promotional and encouragement programs		√	
Parking Management				
15	Charge for parking at market rate for the site's vicinity		√	
16	Set parking fee structure so that cost per hour for short-term parking does not exceed cost per hour for long-term parking		√	
17	Prohibit price reductions for all-day parking (e.g., "Early Bird" specials)		√	
18	Unbundle parking from building leases		√	
19	Provide designated parking spaces for car share programs		√	
20	Create flex-use parking passes that provide fewer days of parking than a monthly pass		√	
Transit, Carpool & Vanpool Programs				
21	Provide or require tenant to offer transit pass subsidy to employees who work at the site		√	
22	Provide free parking for vanpools registered with a public agency		√	
23	Provide information about ride-match opportunities			√
24	Provide reserved spaces for registered vanpools in convenient area that has adequate clearance and maneuvering space			√
25	Provide parking discount for carpools			√
26	Offer guaranteed ride home program			√
Bicycle/Walking Programs				
27	Offer incentive for commuters who bicycle or walk to work		√	
28	Offer programs for bicyclists such as safety training and bicycle maintenance		√	

	TMP Elements	Required for All Projects	Highly Recommended	Location Dependent
Additional Incentives for Owner-Occupied Buildings				
29	Offer telecommuting program for employees (used at least once per week)			√
30	Allow flexible working hours			√
31	Provide subsidy to residents or employees for car-sharing program			√
32	Provide subscription bus service or shuttle to site			√

V. TMP Recording Requirement

Unless otherwise specified in the Conditions of Approval, the TMP must be recorded against the property before DPD issues a Building Permit. The TMP is recorded with the King County Records and Elections Division.

VI. TMP Revisions

The formal process for revising a TMP depends on how the original TMP was established. For a TMP where the Director's Decision (establishing the TMP requirements) specifies only the TMP goal, and no program elements, any elements may be modified by written agreement between the applicant and the City. A written agreement is sufficient to modify the elements of such a TMP because the Director's Decision did not require specific elements.

Some TMPs have elements that are specified conditions in the Director's Decision. (There may be additional elements added later by consent of the City and the applicant that were *not* specified in the Decision.) The elements specified in the original Decision are a component of that Decision. Thus, if the elements in the original permit are sought to be modified by the City or applicant, City land use code requirements would apply and the Decision would need to be republished. If a Director's Decision is republished, the code typically requires public notice and an opportunity to appeal the decision. This would not be an issue for elements that were subsequently added to the original list of elements, because these later elements are not components of the Director's MUP decision.

An applicant may seek changes to a TMP goal or elements at any time following initial implementation of the TMP. In addition to any notice and appeal requirements that may apply, DPD and SDOT must approve, in writing, any modifications to the TMP. The revised TMP must be submitted to DPD and SDOT for approval and re-recorded before it is implemented.

Modifications to TMPs developed as part of Major Institution Master Plans (MIMPs) must follow the processes required in Chapter 23.69 for general revisions to the master plan.

Within the context of this more general modification, elements of a MIMP TMP may be expanded to include additional relevant elements for specific projects, as with other non-MIMP TMPs.

VII. Descriptions of TMP Program Elements

A. Building and Frontage Features (Physical Improvements)

1. Install Commuter Information Center (Required Element). A Commuter Information Center (CIC) can be a bulletin board or electronic kiosk that is located in a highly-visible and accessible area of a building. The CIC should include information about alternative travel modes such as schedules for public transportation that serve the location, information about ride-match programs and services, the location of cycling and pedestrian amenities, the price and availability of HOV parking, and any other materials and information that enhances access and mobility to the site. The CIC should display the name, telephone number and office location of the Building Transportation Coordinator (BTC). Information in the CIC should be periodically updated by the applicant or responsible party to keep it current.

2. Construct infrastructure improvements that are consistent with the City's Design Guidelines related to the transit and pedestrian environment. Potential improvements include (but are not limited to) the following:

- Enhanced transit shelters
- Integrated shelter as part of building façade
- Covered passenger waiting areas
- Benches and/or lean rails in passenger waiting areas
- Enhanced sidewalk areas
- Pedestrian and/or bicycle connections to transit
- Safe bicycle access routes
- Illumination
- Wayfinding features

3. Provide shower and locker facilities. These facilities serve commuters who bike or walk to work. The City may establish a number of showers and lockers consistent with the number of bike racks provided for commuters or by some other ratio depending on the location.

4. Reduce parking supply below market demand rate for the type of land use and location. Developers or lenders often desire to provide parking in excess of the City's parking code requirements in order to meet a project's market demand. This demand is often determined using rates for various land uses from the Institute of Transportation Engineers' (ITE) *Parking Generation* or Urban Land Institute's *Shared Parking*. Determining the market demand for parking can also consider a project's location and availability of transit and alternative travel modes. The availability of alternative transportation combined with trip reduction strategies offered by a TMP may allow developers to reduce parking supply.

5. Install pedestrian wayfinding signs. Signage that directs pedestrians to transit stops or stations can promote walking. In neighborhoods where wayfinding master plans have been adopted, signs should be designed to match.
6. Provide more bicycle parking than required by the Land Use Code. The applicant can increase the amount of bicycle parking required by the code.
7. Provide bike storage that meets City performance standards, including but not limited to ease of access, weather-protected locations, good lighting and other security standards. Acceptable bicycle storage includes but is not limited to secured bike corrals or bike lockers. Other amenities to encourage bicycle use can include maintenance facilities such as a work bench, tools, air pumps for tires, and a bike-share program.

B. Management & Promotion

8. Appoint a Building Transportation Coordinator (BTC) (Required Element). The BTC is a permanent staff position assigned to administer the requirements of this agreement. The BTC should receive support and direction from management and any training that enables the BTC to carry out these responsibilities effectively. The BTC may also need to attend training workshops and trip reduction network group meetings provided by the City or its agent. The BTC may delegate some of the tasks required to administer the TMP to a third party, such as a transportation management association, but will remain responsible for TMP compliance. As part of the annual reporting requirements, the name, phone number, fax number, and email address of the BTC shall be filed with the City of Seattle and updated if the designee changes.
9. Produce and distribute a commuter information packet (Required Element). A commuter information packet (CIP) should contain complete information about the applicant's TMP, including transportation benefits, transportation options, HOV programs and discounts, bicycling amenities, transportation subsidies, and other elements of the TMP. The CIP should be distributed (either on paper or electronically) to tenants, employees, students, other building workers and occupants, and at promotional events. A copy should also be available in the building's Commuter Information Center. The first CIP will be distributed to tenants prior to or upon occupancy, and redistributed at least once each year. The CIP should be updated as conditions change. A copy of the CIP shall be included with the TMP in reports to the City.
10. Require tenant participation in TMP (Required Element). The TMP requirements apply to the entire building as typically required by a MUP. Tenants are required to meet the TMP goal and implement the TMP requirements for the life of the project, and should work cooperatively with the BTC so that the building is able to meet these requirements.
11. Submit regular report (Required Element). The City will define the reporting period. Each report will describe the current TMP and include copies of CIP-related information distributed at the site during the year immediately preceding the report.
 - a. The first report for this project is due one year from the date of occupancy.
 - b. Subsequent reports are due on January 31 of the reporting year.

12. Conduct a biennial commuter survey (Required Element). This survey, conducted at least every two years, is used to evaluate whether buildings and building owners (or other responsible parties) have achieved their TMP Goal. The survey will be conducted at the building owner's/responsible party's cost. The survey questionnaire will be provided by the City. The building owner/responsible party is responsible for the distribution of the survey to the building tenants. Survey results and analysis are processed by the City and shared with the BTC. The City will evaluate the report of survey results and determine if the goal has been achieved, and in what way the responsible party shall improve the TMP or other trip reduction programs at the site in order to meet the TMP goal. More frequent reporting may be required for sites that fail to meet the TMP goals.

13. Participate in a transportation management association (TMA) or similar organizations formed for the purpose of promoting trip reduction and improving transportation choices, where such associations are available. A TMA can provide services that assist the BTC with TMP responsibilities such as coordinating tenants' participation, preparing and disseminating commuter information packets, surveying employees and customers, managing transit pass subsidies, and hosting promotional events.

14. Participate in promotional programs such as the City's InMotion, Washington Rideshare Organization, and King County's Wheel Options that provide additional information or incentives related to alternative modes of travel.

C. Parking Management

15. Charge market rate for parking. Fees for parking a single-occupant vehicle should be at market rates for the site's vicinity.

16. Set fees to encourage short-term parking. The hourly rate charged for short-term parking (e.g., customers, visitors, or patients who park for four hours or less) should be less than or equal to the equivalent hourly rate charged for long-term parking (e.g., those who park for six or more hours).

17. Prohibit price reductions for all-day parking. There should be no discounted or favorable pricing for long-term parking (e.g., no "early bird specials").

18. Unbundle parking from building-space leases: The applicant should not "bundle" the price of parking spaces into the price paid by the lessee for building space.

19. Provide designated space for car share programs. Provide one or more parking spaces for a car-sharing program (e.g., Zipcar).

20. Create "flex-use" parking passes. Create a parking pass that provides fewer days of parking than a monthly parking pass. For example, instead of allowing 20 to 22 days of weekday parking, it could provide between 5 and 15 days of parking. A building employee can then use alternative modes of transportation (e.g., bike, walking or transit) on the remaining days of the month.

D. Transit, Carpool & Vanpool Programs

21. Provide transit pass subsidy to employees who commute by transit.
22. Provide free parking for registered vanpools. Vanpools registered with a public transit agency shall park free of charge.
23. Ride-match information is available through King County Metro and other transit agencies. The BTC is responsible for assisting tenants and their employees with implementing ride-match programs. These programs match employees with potential carpool mates who live in close proximity.
24. Provide reserved parking spaces for registered vanpools in preferred locations. Preferred parking spaces are those considered to be most desirable, e.g., closest to elevators, the building's lobby or main entrance, or garage exits. Reserved spaces should be marked and signed, and should have adequate clearance and maneuvering spaces along the access and egress route(s).
25. Provide parking discount for carpools. Parking operators may offer lower prices as short-term promotions or introductory rates for newly-formed carpools.
26. Offer guaranteed ride home program. A guaranteed ride home serves commuters who use alternative forms of transportation but need to get home quickly in an emergency or after available transit service has stopped. The ride home can be by taxi, company-owned vehicle, or car-sharing vehicle. The number of rides available per month or year may be limited.

E. Bicycle/Walking Programs and Amenities

27. Offer financial or other incentives for commuters who bicycle or walk to work.
28. Offer programs for bicyclists such as safety training and bicycle maintenance.

F. Additional Incentives for Owner-Occupied Buildings

29. Offer telecommuting program by allowing employees the ability to work from home at least once per week.
30. Allow flexible working hours. Flexible start/end times enable employees to meet transit and ride-share schedules.
31. Provide subsidy for car-sharing program (e.g., Zipcar) to encourage residents or employees to try such a service.
32. Provide subscription bus or shuttle service that employees can use to reach transit hubs, major destinations, and/or run midday errands.

VIII. Definitions and Acronyms

BTC – Building (or Institution) Transportation Coordinator.

Carpool – A motor vehicle occupied by two or more adults that commute together on a regular basis with a common origination and destination.

CIC – Commuter Information Center.

CTR – Commute Trip Reduction Law, RCW 70.94.521-555 and SMC 25.02 requires major employers to develop and implement a commute trip reduction program, report on progress each year, and conduct an employee commute survey every two years.

HOV – High Occupancy Vehicle. Any modes of travel carrying two or more people, including but not limited to carpools, vanpools, transit, and custom bus service.

Major Institution – An institution, which, by nature of its function and size, dominates and has the potential to change the character of the surrounding area and/or create significant negative impacts on the area. Major Institutions are subject to SMC Chapter 23.69, and are more fully defined at SMC 23.84A.025.

MUP – Master Use Permit. The document issued to a project applicant, recording all land use decisions made by DPD on a master use application. The term excludes construction permits and land use approvals granted by the City Council, by citizen boards or by the state.

SEPA – The State Environmental Policy Act, which is implemented by Seattle Municipal Code Chapter 25.05.

SMC – The Seattle Municipal Code.

SOV – Single Occupant Vehicle means a motor vehicle occupied by one (1) person for commute purposes.

Tenants – Those who lease or rent space in a project building.

TMA – Transportation Management Association. An organization of employers or property owners, or a group representing employers or property owners, who are working together to administer and promote trip-reduction programs. A new TMA must submit documentation describing: its staff experience; affiliation with other organizations; mission statement, goals, and objectives; a strategic plan describing proposed service area and services offered; and a financial plan. The Director will evaluate TMA submittals for approval using the following criteria: suitability of TMA goals and objectives with regard to the purpose of a TMP; support of the TMA's mission from member employers; progress toward the development and successful deployment of the TMA's strategic plan; and financial management systems (i.e. financial stability).

Unbundled Parking – “Unbundle” means to separate the cost of leasing parking spaces from the cost of leasing of building space.

Vanpool – A high occupancy vehicle that accommodates six or more people who are registered and permitted by a state, county, regional transit agency, local jurisdiction or their agent(s) to operate and/or ride in the vehicle.

ATTACHMENT A

[Date]

Diane Sugimura, Director
Department of Planning and Development
700 Fifth Avenue, Suite 2000
P.O. Box 34019
Seattle, Washington 98124-4019

Re: TMP Acknowledgment Letter for Master Use Permit Number _____

I _____ (NAME), as owner of _____
(LEGAL DESCRIPTION) _____ identified as _____
(ADDRESS) _____ understand that I am required to comply with the following
condition(s) related to the Transportation Management Plan (TMP) imposed on Master
Use Permit (MUP) number _____.

_____ (MUP CONDITIONS) _____

I understand that additional MUP condition(s) unrelated to the TMP may apply to the proposal as specified by the Director's decision.

I further understand that failure to achieve the goals specified in the TMP and/or to comply with the requirements of the TMP, as set forth by Director's Rule 10-2012, and specified by the condition(s) listed above shall be a violation of the permit condition(s) and will result in enforcement pursuant to the Seattle Land Use Code (SMC 23.90) and Master Use Permit Process (SMC 23.76). I understand that the condition(s) by which the City has approved the project are effective for the life of the project and apply to me and/or my company, and/or to future property owners.

Sincerely,

Appendix ZZ

Charter of the City of Boulder, Colorado

Title 3 – Revenue and Taxation

Chapter 3-2 – Sales and Use Tax

Chapter 3-2-39. Earmarked Revenues.

(a) The amount of the sales and use tax revenue attributable to the levy and collection of one cent of sales and use tax for each fiscal year shall be set aside in a separate fund entitled "Open Space and Street Fund," and expended by the city only as follows:

(1) To pay a portion of the tax refund program as provided under Chapter 3-5 , "Tax Refund Program," B.R.C. 1981, as amended, such portion to be \$160,000 for 1984, and an equivalent amount as adjusted by the change in the Consumer Price Index each year thereafter.

(2) All other monies accruing to the open space and street fund shall be expended only for the acquisition of open space real property or interest in real property, or for the payment of indebtedness incurred for such acquisition, and for such expenditures as may be necessary to protect open space properties or interest in real properties so acquired from any and all threatened or actual damages, loss, destruction, or impairment from any cause or occurrence, and also for projects related to transportation or for or related or appurtenant to transportation services or facilities, including, without limitation, studying, acquiring, constructing, providing, operating, replacing, or maintaining transportation services or facilities and all services and facilities incidental or appurtenant thereto, and the payment of indebtedness for any such expenditures.

(b) Prior to the adoption of the city's budget for the succeeding fiscal year, the city council shall review the revenues and expenditures of the open space and street fund in order to assure that the period 1968-1969 and in every succeeding two-year period, the expenditures of monies during said period for acquisition of open space real property or interests in real property, or the payment of indebtedness incurred therefor and the expenses as may be necessary to protect open space real properties or interests therein so acquired from any and all threatened or actual damages, loss, destruction, or impairment from any cause or occurrence, do not exceed forty percent of the revenues accruing or expected to accrue to said fund during said two-year period, exclusive of that portion necessary to pay the portion of the tax refund program specified in Paragraph (a)(1) of this section and exclusive of that portion authorized for transfer and transferred to the general fund; and to assure that in such two-year period the expenditures of monies for transportation and related or appurtenant facilities or service or indebtedness therefor described in Paragraph (a)(2) of this section, do not exceed sixty percent of the revenues accruing or expected to accrue to said fund during

such two-year period, exclusive of that portion necessary to pay the portion of the tax refund program specified in Paragraph (a)(1) of this section and exclusive of that portion authorized for transfer and transferred to the general fund of the city.

(c) Pledged sales and accommodations tax revenue, as defined in the cooperation agreement dated May 7, 2003, between the city, the City of Boulder Central Area General Improvement District, and the Boulder Urban Renewal Authority, means the 1.6 percent sales tax levied by the city on the retail sale of taxable goods and services within the Boulder Urban Renewal Authority's 9th and Canyon Tax Increment Area, which 1.6 percent includes the 1.0 percent general sales tax allocable to the city's general fund and the 0.6 percent transportation sales tax allocable to the city's transportation fund, each of which is a permanent city sales tax and does not have a stated expiration date, and the 5.5 percent accommodations tax in the nature of a sales tax levied by the city on the price paid for the rental of hotel rooms located within the tax increment area; but this shall not include any such tax if the same is repealed. This revenue is pledged to the Authority to support the District's bonds for the facility it constructed in the Tax Increment Area.

(d) Effective January 1, 1988, the amount of the sales and use tax revenue attributable to the levy and collection of 0.38 percent of sales and use tax and required for payments on related bonds shall be set aside as follows:

Beginning at such time as any bonds are issued by the city pursuant to authority granted by the electors in November, 1987, for the purpose of acquiring any real or personal property or any interest therein and constructing and equipping library buildings, not in a floodway, the city manager shall determine the amount, if any, reasonably necessary for the payment within the next payment period following such determination of principal, interest, premium, if any, and reserves on such bonds and shall set aside a pro rata portion of such monies in a separate "Library Bond Fund." The monies of said fund shall be expended by the city council solely for the above-stated principal, interest, premium, and reserve bond payment purposes. The residual amount shall be added to the general fund of the city.

(e) From January 1, 1990, through December 31, 2018, the amount of the sales and use tax revenue attributable to the levy and collection of 0.33 percent of sales and use tax shall be set aside in an open space fund for the acquisition, maintenance, preservation, retention, and use of open space lands as defined in section 170 of the charter, and the payment of any indebtedness and tax refunds related thereto.

(f) From January 1, 1996, through December 31, 2015, the amount of the sales and use tax revenue attributable to the levy and collection of 0.25 percent of sales and use tax approved by the electors in November, 1995, shall be set aside in a separate fund and pledged for the payment of the principal, interest, and premium, if any, on the park bonds concurrently

approved by the electors, and then for: development, operation, and maintenance of the land and improvements purchased or constructed with the proceeds of the bonds; renovation and refurbishment or replacement of four pools; renovation and replacement of recreation facilities, playgrounds, mountain park trails, and the civic park complex; improvements to recreation centers and development of new recreation projects to be determined in the future through the master planning process by the city council; maintenance of the community park site in north Boulder; development of a mountain parks environmental education program; and for renovation of city-owned historical and cultural facilities; with the remainder being dedicated for parks and recreation purposes.

(g) From January 1, 2007 through December 31, 2007, the amount of the sales and use tax revenue attributable to the levy and collection of 0.15 percent sales and use tax approved by the electors in November, 2006, shall be used for funding construction of phase I of a fire training center and, if any funds remain after construction of phase I, using the funds for construction of phase II or the purchase of fire apparatus, or both.

(h) From January 1, 2004 through December 31, 2019, the amount of sales and use tax attributable to the levy and collection of 0.15 percent sales and use tax approved by the electors in November, 2003, shall be used to provide additional revenues for open space purposes as defined in the charter, and the payment of any indebtedness therefor.

Ordinance Nos. 4812 (1984); 4879 (1985); 5015 (1986); 5047 (1987); 5222 (1989); 5492 (1992); 5780 (1996); 5958 (1997); 7323 (2003); 7505 (2006); 7822 (2011)

Chapter 13.26
TRANSPORTATION IMPACT FEE

13.26.010 Authority.

This chapter is enacted pursuant to the Mitigation Fee Act contained in Government Code Section 66000 et seq. (Ord. 964 § 2 (part), 2009)

13.26.020 Application.

This chapter applies to fees charged as a requirement of development approval to defray the cost of certain transportation improvements required to serve development within the city of Menlo Park. This chapter does not replace normal subdivision map exactions or other measures required to mitigate site-specific impacts of a development project including, but not limited to, mitigations pursuant to the California Environmental Quality Act; regulatory and processing fees; fees required pursuant to a development agreement; funds collected pursuant to a reimbursement agreement that exceed the developer's share of public improvement costs; or assessment district proceedings, benefit assessments, or taxes. (Ord. 964 § 2 (part), 2009)

13.26.030 Intent and purpose.

The city council of the city of Menlo Park declares that:

- (a) Adequate transportation improvements are needed to protect the health, safety, and general welfare of the citizens to facilitate transportation and to promote economic well being within the city;
- (b) The city of Menlo Park provides transportation improvements and services for residents, businesses, and employees within the city;
- (c) Individual transportation improvements are part of an integrated system serving and providing benefits to the entire city;
- (d) Improvements to the existing transportation systems in the city are needed to mitigate the cumulative impacts of developments;
- (e) All types of development require and use the transportation system;
- (f) It is the stated goal of the general plan that level of service D or better shall be maintained at all city-controlled signalized intersections during peak hours, except at the intersection of Ravenswood Avenue and Middlefield Road and at intersections along Willow Road from Middlefield Road to U.S. 101, as defined in the City of Menlo Park General Plan;
- (g) There are not adequate public funds available to maintain the level of service as defined in the general plan in the city;
- (h) In order to ensure that the level of service as stated in the general plan is maintained, and to promote the health, safety, and general welfare of the community, it is necessary that development pay a fee representing its share of costs of the necessary improvements;

- (i) The traffic impact fee is based upon the evidence that development generates additional residents, employees, and customers, which in turn place an additional cumulative burden upon the local transportation system and should be expected to pay a share of the new facilities, as more fully described in the City of Menlo Park Transportation Impact Fee Study;
- (j) The purpose of this fee is to help provide adequate transportation improvements to serve cumulative development within the city. However, the fee does not replace the need for all site-specific transportation improvements that may be needed to mitigate the impact of specific projects upon the city's transportation system;
- (k) The transportation improvements for which the fee will be used are identified in the transportation impact fee study, as modified from time to time. Nothing in this chapter commits the city to construct all of the transportation improvements identified in the transportation impact fee study, as modified from time to time. (Ord. 964 § 2 (part), 2009)

13.26.040 Definitions.

The following definitions apply to this chapter:

- (a) Transportation improvements include all street and intersection improvements and related facilities and equipment identified in the transportation impact fee study, as modified from time to time.
- (b) Gross floor area shall be calculated in accordance with the definition of gross floor area in the most recent version of the Institute of Transportation Engineers (ITE) Trip Generation Manual.
- (c) Land use categories included in the transportation impact fee study are as defined in the most recent version of the ITE Trip Generation Manual.
- (d) Other Uses. The transportation manager shall determine the appropriate land use category for any use not included in the transportation impact fee study, based on a similarity of use and peak hour trip characteristics of the use as indicated in the most recent version of the ITE Trip Generation Manual or calculate the fee based on the per trip fee in the transportation impact fee study, as modified from time to time. (Ord. 964 § 2 (part), 2009)

13.26.050 Fee requirement.

- (a) General. The amount of the proposed fee shall be established by resolution of the city council and shall be based upon the following considerations:
 - (1) Development will pay fair-share cost of transportation improvements described in the transportation impact fee study.

(2) Each type of development shall contribute to the needed improvements as described in the transportation impact fee study.

- (b) Types of Development Subject to the Fee. The fee shall be applicable to new development in all land use categories identified in the city's zoning ordinance, any construction adding additional floor area to a lot with an existing building, new single-family and multifamily dwelling units, and changes of use from one land use category to a different land use category.
- (c) Amount. The amount of the fee shall be determined by the methodology set forth in the transportation impact fee study and more particularly shown on the table of rates attached to the resolution approving the fee, as modified from time to time. Any use that does not fit into the identified rates will be determined based on Section 13.26.040(d), Other Uses.
- (e) The transportation manager shall have authority to render final determinations regarding the appropriate classification of land use and the correct calculation of gross floor area for a particular development project as it relates to the calculation of the traffic impact fee. (Ord. 964 § 2 (part), 2009)

13.26.060 Fee payment.

The transportation impact fee shall be paid in full to the city of Menlo Park before a building permit is issued. The fee shall not apply to any project that has received discretionary planning review approval prior to the effective date of the ordinance codified in this chapter, except for any project that is subject to an existing development agreement that requires the payment of fees. (Ord. 964 § 2 (part), 2009)

13.26.070 Authority for additional mitigation.

Fees collected pursuant to this chapter are not intended to replace or limit requirements to provide mitigation of traffic impacts not mitigated by the transportation impact fee and created by a specific project, and imposed upon development projects as part of the development review process. (Ord. 964 § 2 (part), 2009)

13.26.080 Fee credit.

- (a) The transportation manager may adjust the fee imposed pursuant to this chapter in consideration for certain facilities or improvements constructed or paid for by the developer. A developer is entitled to credit for the reasonable cost of the improvements, as determined by the transportation manager, if the improvement is identified in the transportation improvement fee study.
- (b) For new construction, a developer shall receive credit toward the fee based on the gross floor area of existing buildings and/or the number of residential units which are being demolished and the predominant historical use as determined by the transportation manager.

- (c) For a change of use, a developer shall receive credit toward the fee based on the gross floor area of existing buildings and/or number of residential units for which there is a change of use based on the predominant historical use as determined by the transportation manager. (Ord. 964 § 2 (part), 2009)

13.26.090 Appeal.

- (a) The developer of a project subject to this chapter may appeal the imposition and/or calculation of the fee at any time after the final determination of the fee by the transportation manager and before payment of the fee without protest to the city council.
- (b) The appellant shall state in detail the factual basis for the appeal and shall bear the burden of proof in presenting substantial evidence to support the appeal.
- (d) The city council shall uphold the fee and deny the appeal if it finds that there is a reasonable relationship between the development project's impact on transportation facilities and the amount of the fee. The city council shall consider the land use category determination and the substance and nature of the evidence, including the fee calculation method, supporting technical documentation, and the appellant's technical data. Based on the evidence, the city council may also modify the fee. (Ord. 964 § 2 (part), 2009)

13.26.100 Refund of fee.

- (a) If a building permit or use permit expires, is canceled, or is voided and any fees paid pursuant to this chapter have not been expended, no construction has taken place, and the use has never occupied the site, the transportation manager may, upon the written request of the applicant, order the return of the fee, less administrative costs.
- (b) The city council shall make a finding with respect to any fee revenue not expended or committed five years or more after it was paid. If the city council finds that the fee revenue is not committed, it shall authorize a refund to the then-owner of the property for which the fee was paid, pursuant to Government Code Section 66001 or successor legislation. (Ord. 964 § 2 (part), 2009)

13.26.110 Accumulation and use of funds.

- (a) Transportation Impact Fee Fund. The city shall deposit the fees collected under this chapter in a special fund, the transportation impact fee fund, designated solely for transportation improvements.
- (b) Use of Funds. The fees and interest earned on accumulated funds shall be used only to complete the transportation improvement projects specified in the transportation impact fee study, as modified from time to time, or to reimburse the city for such construction if funds were advanced by the city from other sources. (Ord. 964 § 2 (part), 2009)

13.26.120 Adjustment of fee.

The transportation impact fee authorized by this chapter, implementing council resolutions, and supporting documentation, including the transportation impact fee study, as modified from time to time, may be reviewed from time to time in order to make any findings required by state law and to make any adjustments in the amount of the fee. The fee shall automatically increase annually on July 1st based upon the Engineering News Record Construction Cost Index for the San Francisco Bay Area. (Ord. 964 § 2 (part), 2009)

Ordinance Number 1604
(and amendments)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA MUNICIPAL CODE TO REQUIRE NEW AND EXISTING NON-RESIDENTIAL DEVELOPMENT PROJECTS TO ADOPT EMISSION REDUCTION PLANS AND PAY TRANSPORTATION IMPACT FEES TO REDUCE TRAFFIC CONGESTION AND IMPROVE AIR QUALITY IN THE CITY.

SECTION 1. Chapter 2B is added to Article IX of the Santa Monica Municipal Code to read as follows:

CHAPTER 2B - TRANSPORTATION MANAGEMENT

SECTION 9.16.010. **Findings.** The City Council finds and declares:

- (a) Expected growth in population and employment opportunities in the City will be accompanied by concomitant increases in traffic congestion.
- (b) Transportation and traffic studies project that future traffic levels on surface streets will be severe unless measures are taken to reduce commute hour traffic levels.
- (c) Air quality studies indicate that ozone and carbon monoxide concentrations exceed state and federal standards some days in the City.
- (d) Traffic along some major routes in the City has or is expected to reach Level of Service "F" during peak hours, indicating conditions where excessive delays develop repeatedly due to vehicles arriving at rates greater than capacity and where emergency vehicle travel is impeded.
- (e) New development and major additions to existing development by the year 2010 will have an adverse impact on the existing transportation systems by adding approximately 17,000 trips to the existing demand of over 20,000 p.m. peak hour trips from non-residential land uses.
- (f) The City's General Plan calls for formation of a plan to implement the transportation management policies of the Circulation Element, an uncongested traffic circulation system, energy conservation, and maintenance of noise and air quality levels within established standards.
- (g) The transportation system is impacted City-wide by the traffic and parking requirements of development.
- (h) Transportation Systems Management, Transportation Demand Management, and Transportation Facilities Development strategies can improve service and operations to increase mobility and the general efficiency of the system. These strategies encompass traffic operations, ridesharing, and bicycle improvements as well as transit planning and management of the system. These strategies enhance vehicle flow or shift demand on an existing transportation facility and can

be effective to mitigate negative effects of transportation, such as air quality, energy use, and noise levels.

(i) Reduction of congestion and the time of commute trips will improve the quality of life in the City and improve the quality and level of access for residents and employees and patrons of local businesses.

(j) Coordination of Transportation Systems Management, Transportation Demand Management, and Transportation Facility Development strategies with other cities and counties in the region and through regional agencies will assist in meeting the goals of this Chapter.

SECTION 9.16.020. Purpose and Objectives. The purpose and objectives of this Chapter are to establish an Emission Reduction Plan that will:

(a) Allow for any growth permitted by the land use plans of the City while minimizing peak-hour automobile commute trips from new and existing places of employment.

(b) Reduce traffic impacts within the community and region through a reduction in the number of vehicular trips and total vehicle miles traveled.

(c) Reduce the vehicular air pollutant emissions, energy usage, and ambient noise levels through a reduction in the number of vehicular trips, total vehicle miles traveled, and traffic congestion.

(d) Ensure City compliance with South Coast Air Quality Management District Rule 2202, and require employers both to meet Rule 2202 emission reduction targets and to achieve City traffic objectives.

(e) Achieve a commuter Average Vehicle Ridership of 1.50 or the equivalent in emission reductions within one (1) year for employers of 100 employees or more.

(f) Achieve City-wide commuter Average Vehicle Ridership of 1.50 or the equivalent in emission reductions within three (3) years.

(g) Maintain levels of service on streets and intersections during peak-hours at or below capacity for as long a period of time as feasible.

(h) Prevent levels of service on streets and intersections that have not reached Level of Service "E" during peak-hours from reaching that level.

(i) Improve levels of service on streets and intersections that have already reached Level of Service "E" during peak-hours.

(j) Minimize the percentage of employees traveling to and from work at the same time and during peak hour periods in single occupant vehicles.

(k) Assist in attainment of the requirements of the Federal Clean Air Act.

- (l) Implement several air quality control measures required of local governments by the 1991 Air Quality Management Plan adopted by the South Coast Air Quality Management District and subsequent updates.
- (m) Promote and increase work-related transit use, ridesharing, walking and bicycling to minimize parking needs and to protect critical intersections from severe overload.
- (n) Decrease the government cost of transportation and parking facility construction and improvements.
- (o) Maximize the use of commute modes other than the single-occupancy vehicle through Transportation Systems Management, Transportation Demand Management, and Transportation Facilities Development.

SECTION 9.16.030. **Definitions.** The following words and phrases shall have the following meanings when used in this Chapter:

Audit. A selective inspection by the City of an employer's activities related to the fulfillment of ongoing implementation and monitoring of an approved Emission Reduction Plan.

Average Vehicle Ridership (AVR). The total number of employees who report to or leave the worksite or another job-related activity during the peak periods divided by the number of vehicles driven by these employees over that five-day period. The AVR calculation requires that the five-day period must represent the five days during which the majority of employees are scheduled to arrive at the worksite. The hours and days chosen must be consecutive. The averaging period cannot contain a holiday and shall represent a normal situation so that a projection of the average vehicle ridership during the year is obtained.

An example of morning AVR using a weekly averaging period for an employer with 300 employees all reporting to work weekdays between 6:00 a.m. and 10:00 a.m. is:

Employees reporting to work:

Monday	300
Tuesday	300
Wednesday	300
Thursday	300
Friday	300
Total	1500

Number of vehicles driven to the worksite by these employees:

Monday	270
Tuesday	250
Wednesday	280

Thursday	265
Friday	262
Total	1327

In this example, AVR is arrived at by dividing the number of employees reporting to work between 6:00 a.m. and 10:00 a.m. during the week (1500) by the number of vehicles driven to the worksite between the same hours during the week (1327):

$$\frac{1500}{1327} = 1.13 \text{ AVR}$$

A similar calculation is required for obtaining the afternoon peak period AVR for commute trips to and from the worksite between 3:00 p.m. and 7:00 p.m..

AVR Target. The AVR that a Emission Reduction Plan is designed to achieve for a particular worksite. The AVR target for worksites in Santa Monica is 1.5 AVR.

AVR Verification Method. A method approved by the City's Transportation Management Coordinator for determining an employer's current AVR.

AVR Window. The period of time comprised of both hours and days used to calculate AVR (i.e., 6:00 a.m. -10:00 a.m. and 3:00 p.m. - 7:00 p.m.).

Carpool. A motor vehicle occupied by two (2) or more persons traveling together to and from the worksite for the majority (at least 51%) of the total commute.

Commute Trip. A home-to-work or work-to-home trip.

Compliance Inspection. An unannounced inspection by the City of an employer's activities related to the fulfillment of ongoing implementation and monitoring of an approved Emission Reduction Plan.

Compressed Work Week. This applies to employee(s) who, as an alternative to completing the basic work requirement in five, eight-hour workdays in one week are scheduled in a manner which reduces vehicle trips to the worksite. The recognized compressed work week schedules for purposes of Chapter 9.16 of the Municipal Code are thirty-six hours in three days (3/36), forty hours in four days (4/40), or eighty hours in nine days (9/80).

Consultant ETC. A person that meets the requirements of and that serves as an ETC at a single worksite for an employer other than the Consultant ETC's employer.

Developer. Any person responsible for development of a non-residential development project that will result in ten (10) or more peak period trips.

Disabled Employee. An individual with a physical or mental impairment which prevents the individual from complying with the employer's emission reduction plan.

Emission Reduction Plan (ERP). A plan intended to reduce emissions related to employee commutes and to meet a worksite specific emission reduction target for the subsequent year.

Emission Reduction Plan Appeals Board (ERP Appeals Board). The administrative review body for decisions of the City's Transportation Management Coordinator. The ERP Appeals Board shall consist of the Transportation Planning Manager, the Director of Planning and Community Development, and an at-large member appointed by the City Council. The Transportation Planning Manager and the Director of Planning and Community Development may designate an employee from his or her division or department as his or her representative.

Emission Reduction Target (ERT) The annual VOC, NOx, and CO emissions required to be reduced based on the number of employees per worksite and the employee emission reduction factor.

Employee. Any person employed by a person(s), firm, business, educational institution, nonprofit agency or corporation, government agency or other entity who reports to work at a single worksite for six months or more, excluding paid resident students working on a school campus. Temporary employees, part-time employees, field construction workers and independent contractors shall be treated as defined.

Employee Transportation Coordinator (ETC). The designated person, with appropriate training as approved by the City who is responsible for the development, implementation and monitoring of the Employee Trip Reduction Plan. The ETC must be at the worksite a minimum of fifteen hours per week or have a certified On-site Coordinator at the worksite a minimum of fifteen hours per week. All worksite-related information must be kept at the worksite. Employee Transportation Coordinators shall participate in City-sponsored workshops and information roundtables.

Employee Trip Reduction Plan (ETRP). A plan for implementation of strategies that are designed to reduce employee commute trips during the AVR windows.

Employer. Any public or private employer, including the City of Santa Monica, having a permanent place of business in the City and employing 10 or more employees.

Field Construction Worker: An employee who reports directly to work at a construction site outside the City of Santa Monica for the entire day, an average of at least six months out of the year. These employees will not be calculated in the AVR, but shall count as part of employee population when figuring the Employer Annual Impact Fee.

Holiday. Those days designated as National or State Holidays, or religious or other holidays in which more than 10% of the employee population observes by not reporting to work. These days shall not be included in the AVR survey week.

Independent Contractor. An employee who enters into a direct written contract or agreement with an employer to perform certain services and is not on the employer's payroll. These employees shall be treated as Temporary Employees.

Level of Service (LOS). A term to describe prevailing and projected traffic conditions on a roadway and is expressed by delay and the ratio of volume/capacity (V/C). Six levels of service are designated "A" through "F." "A" describes a free flowing condition and "F" describes forced traffic

flow conditions with severe capacity deficiencies and delays. This definition is based on the Highway Capacity Manual Transportation Research Board SR 209 (1985).

Low Income Employee. An individual whose salary is equal to or less than the current individual income level set in California Code of Regulations, Title 25, Section 6932, as lower income for the county in which the employer is based. Higher income employees may be considered to be "low-income" if the employee demonstrates that the plan disincentive would create a substantial economic burden.

Monitoring. The techniques used to assess progress towards complying with the transportation management plan.

Multi-Site Employer. Any employer which has more than one worksite within the City of Santa Monica, or more than one worksite in the South Coast Air Basin with one or more of those sites located in the City of Santa Monica.

Multi-Tenant Worksite. A structure, or group of structures, on one worksite where more than one employer conducts a business.

On-Site Coordinator: An employee who serves as on-site contact for employees at a worksite served by a Consultant ETC, or for an employer with more than one worksite located in the City of Santa Monica.

Parking Cash-Out. Assembly Bill 2109 that requires employers with fifty or more employees who lease their parking and subsidize all or part of that parking to implement a Parking Cash-Out Program. Employers who fall under the purview of parking cash-out must offer their employees the option to give up their parking spaces and receive a cash subsidy in an amount equal to the cost of the parking space. Employers who are subject to parking cash-out requirements must implement a parking cash-out plan. Employers who do not implement a parking cash-out plan will have their Emission Reduction Plans disapproved.

Part-Time Employee. Any employee who reports to a worksite on a part-time basis fewer than 32 hours per week, but more than 4 hours per week. These employees shall be included in the AVR calculations of the employer provided the employees report to or leave the worksite during the AVR window.

Peak Period. In the morning, the peak period includes the hours from 6:00 a.m. to 10:00 a.m. In the evening, the peak period includes the hours from 3:00 p.m. to 7:00 p.m..

Peak Period Trip. An employee's commute trip that begins or ends at the worksite or a work related trip within the peak period.

Pedestrian Oriented Use. A use which is intended to encourage walk-in customers and which generally does not limit the number of customers by requiring appointments or otherwise excluding the general public. Such uses may include, but not be limited to, neighborhood commercial uses, retail uses, cultural uses, restaurants, cafes, and banks.

Performance Target Zone. A geographic area that determines the employee emission reduction factor for a particular worksite. Santa Monica is located in Zone 2.

Preferential Parking. Parking spaces designated or assigned for carpool and vanpool vehicles carrying commute passengers on a regular basis and are provided at a reduced cost and/or in a location more convenient to a place of employment than parking spaces provided for single occupant vehicles.

Remote Sensing. An emissions reduction strategy in which gross-polluting vehicles are identified by exhaust gas analyzers. Remote sensors measure absorption changes in the infrared or ultraviolet light spectrum and correlates that change to exhaust emission levels. Emission reductions resulting from the subsequent repair of the identified vehicles can be used to meet commute emission reduction targets.

Ridesharing. Any mode of transportation other than a single occupancy vehicle that transports one or more persons to a worksite.

South Coast Air Quality Management District (SCAQMD). The air quality control agency that monitors and enforces air quality regulations in Los Angeles, Orange, Riverside, and San Bernardino Counties.

Telecommuting. Any employee(s) working at home, off-site, or at a telecommuting center for a full work day, eliminating the trip to work or reducing travel distance by more than 50%.

Temporary Employee. Any person employed by an employment service or a "leased" employee, that reports to a worksite other than the employment service's worksite, under a contractual arrangement with a temporary employer. Temporary employees are counted as employees of the employment service for purposes of calculating AVR. Temporary employees reporting to the worksite of a temporary employer for a consecutive period of more than six months shall count as an employee of the temporary employer and shall be calculated in the AVR. The temporary employee shall also be considered an employee when figuring the Employer Annual Impact Fee.

Temporary Employer. Any employer who "leases" an employee from an employment service, or who hires an independent contractor as defined.

Training Provider. A person, firm, business, educational institution, non-profit agency or corporation or other entity which meets requirements and is certified by the Executive Officer of the South Coast Air Quality Management District and the City of Santa Monica's Transportation Management Coordinator to provide training, as required by Chapter 9.16 of the Municipal Code, to Employee Transportation Coordinators (ETCs).

Transportation Demand Management ("TDM"). The implementation of strategies that will encourage individuals to either change their mode of travel to other than a single occupancy vehicle, reduce trip length, eliminate the trip altogether, or commute at other than peak periods.

Transportation Facility Development ("TFD"). Construction of major capital improvements to a highway or transit system or installation of operating equipment that includes new construction of the existing system or construction of a new system.

Transportation Management Association ("TMA"). A group formed so that employers, employees, and developers can collectively address community transportation related problems. Transportation Management Associations may be formed to implement TDM, TSM, and/or TFD strategies in employment clusters or at multi-tenant worksites. The primary function of a TMA is to pool resources to implement solutions to commuter-related congestion problems in conjunction with the City Transportation Coordinators. The City may identify employment clusters or multi-tenant worksites where an employer organization such as a TMA should be formed.

Transportation System Management ("TSM"). Strategies designed to improve traffic flow through modifications in, or coordination of, the operation of existing facilities.

Trip Reduction. The reduction in single occupant vehicle trips by private or public sector programs used during peak periods of commuting.

Vanpool. A van or similar motor vehicle in which 7 or more persons commute to and from the worksite.

Vehicle. A passenger car or truck used for commute purposes including any motorized two wheeled vehicle. Vehicles shall not include bicycles, transit vehicles, buses serving multiple worksites, or vehicles that stop only to load or unload passengers or materials at a worksite while on route to other worksites.

Work Place or Worksite. A building, part of a building, or grouping of buildings located within the City which are in actual physical contact or separated solely by a private or public roadway, and are owned or operated by the same employer. Employers may opt to treat more than one structure, building, or grouping of buildings as a single worksite even if they do not have the above characteristics if they are owned or leased by the same employer, and are wholly located within the City of Santa Monica. Structures that are located more than ½ mile away from each other must have a certified ETC or On-Site Coordinator at each site.

SECTION 9.16.040. **Applicability.** This Chapter shall apply to employers and developers as defined above. The City shall not be exempt from the requirements of this Chapter.

SECTION 9.16.050. **Transportation Fee.**

(a) Employer Annual Transportation Fee. There shall be an Employer Annual Transportation Fee. The purpose of the Employer Annual Transportation Fee is to pay for the costs of administration and enforcement of this Chapter.

(1) Employers of 50 or more employees filing Employee Trip Reduction Plans (ERPs) and employers of 10-49 employees filing Worksite Transportation Plans (WTPs) shall pay an annual transportation fee calculated using the following formula: Fee = (Number of Employees) x (Employee Cost Factor). The current Employee Cost Factor equals:

(a) Employee Cost Factor =

- _____ 1. \$7.00 per employee for employers with 50 or more employees.
2. \$9.00 per employees for employers with 10 - 49 employees.

The Employee Cost Factor shall from time to time be amended by resolution of the City Council.

(2) The Annual Transportation Fee for employers of fifty or more employees who choose to implement the Emission Reductions Options described in Section 9.16.070 (a) - (c) shall be established and from time to time amended by resolution of the City Council. The current fee is \$401.70 per worksite.

(b) For purposes of calculating an employer's annual transportation fee, the definition of employee shall include full-time, part-time, temporary, seasonal, at-home or in-field contractors of consultants working at a worksite for an average of six months or more.

(3) Employers shall be notified of the Employer Annual Transportation Fee when they receive notice to submit an ERP or WTP in accordance with Section 9.16.090. Employer Impact Transportation Fees shall be due and paid in full with the submittal of the Emission Reduction Plan. The City shall mail notice of payment required by this subsection at least 90 calendar days prior to the due date.

(4) Once the Employer Annual Transportation Fee required pursuant to this Section has been paid, there shall be no refunds.

(5) Employers of fifty employees or more who implement an Employee Trip Reduction Plan and demonstrate attainment of a 1.5 a.m. and p.m. AVR shall receive the following reductions in their Employer Annual Transportation Fees:

a. Attainment of a 1.50 a.m. and p.m. AVR for one year shall result in a 40% reduction of Employer Annual Transportation Fees.

b. Attainment of a 1.50 a.m. and p.m. AVR for two consecutive years shall result in a 50% reduction of Employer Annual Transportation Fees.

c. Attainment of a 1.50 a.m. and p.m. AVR for a period of three or more consecutive years shall result in a 60% reduction of Employer Annual Transportation Fees.

(5) Employers of fifty or more employees who join a TMA certified by the City shall receive a 25% reduction in the Annual Employer Transportation Fee. This reduction shall be in addition to any fee reduction the employer is awarded for attainment of a 1.5 a.m. and p.m. AVR. Fees charged by the TMA to employers for its operation and administrative costs shall be separate from the City's Employer Transportation Fee.

(b) Developer Impact Fee: The purpose of the developer impact fee is to defray the costs of providing transportation facilities and services associated with new commercial development.

(1) Developers who apply for building permits for new or expanded development projects in the City shall mitigate their resultant transportation by paying a one-time transportation impact fee.

The amount of the fee and manner of payment shall be established and from time to time amended by resolution of the City Council.

(2) Fees shall apply to developers who have not received certificates of occupancy as of the effective date of the resolution establishing the fees.

(3) Developers shall pay the required fee prior to issuance of a building permit. Developers who have already obtained building permits must pay the required fee prior to issuance of a certificate of occupancy.

(4) The following land uses are encouraged by the City because of their beneficial impacts and shall receive reductions from the Developer Impact Fee: supermarkets and pedestrian oriented uses on the ground floor of a multi-story building. Both the Impact Fee and the reduction shall be established by resolution.

(5) Refunds of the Developer Impact Fee shall be made upon filing of a request for refund within six (6) months of expiration of a building permit upon verification that construction of the improvements for which the permit was issued have not commenced and no extensions of the building have been granted. No interest shall be paid on any refunded fee.

SECTION 9.16.060. Deposit and Use of Fees.

(a) Employer Transportation Fees collected pursuant to Section 9.16.050(a) shall be deposited in an account separate from the General Fund and shall be allocated to TMP office administration and the development and operations of TMAs.

(b) Developer Impact Fees collected pursuant to Section 9.16.050(b) shall be deposited into an account separate from the General Fund and shall be allocated to the following uses:

- (1) Transportation Demand Management (TDM) improvements
- (2) Transportation System Management (TSM) improvements
- (3) Transportation Facility Development (TFD).
- (4) Public transit improvements.

SECTION 9.16.070. Contents of Emission Reduction Plans. Employers of 50 or more employees are required to submit to the City, within ninety days of notification, an Emission Reduction Plan designed to reduce emissions related to employee commute trips and to meet specific emissions reduction targets specified for the subsequent year. The annual Emission Reduction Target (ERT) shall be determined according to the following equation for VOC, NOx, and CO, based on employee emission reduction factors specified in paragraph (j) of this Section. Any employer who falls under the purview of Assembly Bill 2109 shall implement a Parking Cash-Out Program. Failure to do so will result in the disapproval of an employer's ERP.

[ERT (in lbs. per year)] =

[{employees} x {employee emission reduction factor}] - {vehicle trip emission credit}

Where:

Employee window = Average daily number of employees reporting to work in the window

Employee Emission Reduction Factor = Determined by the year of the plan submittal as defined in Paragraph (g) of this Section.

Vehicle Trip Emission Credits = Determined according to paragraph (g) of this Section

Each employer shall choose one or more of the following options to implement in their Emissions Reduction Plan:

- a. Old Vehicle Scrapping
- b. Remote Sensing
- c. Other Work-Related Trip Reductions
- d. Employee Trip Reduction Plan

(a) Old Vehicle Scrapping: In order to meet their emission reduction target, any employer of fifty or more employees may scrap old vehicles by purchasing Mobil Source Emission Reduction Credits (MSERCs) from an SCAQMD licensed Vehicle Scrapper/Broker, in accordance with SCAQMD Rule 1610.

(1) All Scrappers/Brokers must be licensed by the SCAQMD and adhere to SCAQMD Rule 1610 requirements.

(2) An annual plan indicating the amount of credits purchased and the amount of emissions reduced must be submitted to the City's Transportation Management Coordinator each year.

(3) MSERCs must be transferred to the City MSERC Account no later than 180 days after the approval of the ERP by the City's Transportation Management Coordinator.

(4) Employers choosing this option must do so for a minimum period of three years.

(b) Remote Sensing: Any employer of fifty or more employees may implement a Remote Sensing Program to earn credit towards their emission reduction target. Emission reductions obtained from the implementation of remote sensing shall be determined according to the following equation:

$$\begin{aligned} &[\text{emission reductions in lbs per year}] = \\ &[\{\text{pre-repair emission rate in lbs per mile}\} - \\ &\{\text{post-repair emission rate in lbs per mile}\}] \times [\text{miles traveled}] \end{aligned}$$

When:

Pre-Repair = Measured Emission rate prior to work

Post-Repair = Measured emission rate immediately following repair work.

Miles Traveled = Number of miles traveled following repair work until the next regularly scheduled California Inspection and Maintenance Smog Check.

(1) Vehicles used in the Remote Sensing Program may come from any source (i.e., employee vehicles, fleet vehicles, non-employee vehicles). Employers shall not require employees to repair their vehicles.

(2) An annual plan must be submitted to the City's Transportation Management Coordinator indicating:

a. The number of vehicles repaired.

b. The measured emission rates of each vehicle before repair.

c. The measured emission rates after repair.

d. The number of miles traveled for each vehicle following repair work until the next regularly scheduled California Inspection Maintenance Smog Check.

e. Calculations indicating the Emission Reduction Target has been met.

(c) Other Work-Related Trip Reductions: Employers of fifty or more employees may receive Vehicle Trip Reduction Credits (VTEC) towards meeting their Emission Reduction Targets from employee commute reductions that occur outside of the morning and evening peak windows. VTEC obtained from work-related trip reductions shall be determined according to the following equation:

$$\text{VTEC} = \frac{[\text{CTR}]}{[\text{CF}]} \times [\text{EF}]$$

Where:

CTR (Creditable Trip Reductions) = The daily average of one-way trip reductions that are real, surplus, and quantifiable. A round trip is considered to be two one-way trips.

CF (Conversion Factor) = 2.3 for non-peak trips

EF (Emission Factor) = Emission Factor in paragraph (g) of this Section.

(1) Employers must submit an annual report to the City's Transportation Management Coordinator indicating the number of commute-related non-peak trips reduced and the amount of emissions reduced.

(d) Employee Trip Reduction Plan. Employers of 50 or more employees who choose this option shall prepare, implement, and monitor Employee Trip Reduction Plans (ETRP) for transportation demand management, transportation system management, and transportation facility development

which will be reasonably likely to result in the attainment of a 1.50 a.m. and p.m. AVR within three years and continued achievement and maintenance of the AVR targets thereafter. The ETRP shall be in a form approved by the Transportation Management Coordinator. The ETRP shall undergo an intensive plan review by the City's Transportation Management Coordinator and Transportation Management Specialists.

(1) The Employee Trip Reduction Plan shall include strategies designed to encourage employees to rideshare during the morning and evening AVR windows.

(2) The Employee Trip Reduction Plan shall consist of a report that:

- a. Calculates and documents AVR levels for morning and evening peak periods.
- b. Lists plan incentives and a schedule for their implementation.
- c. Determines a marketing strategy for the plan year.
- d. Determines the use of worksite parking facilities to achieve rideshare and transit objectives (i.e., number of received spaces for carpools, vanpools, etc.).
- e. Lists the bicycle paths and routes within ½ mile of the worksite.
- f. Lists the public transit services within 1/4 mile of the worksite.
- g. Provides a general description of the type of business.
- h. Includes an Emergency Episode Plan and a daily air quality log.
- i. Includes a sample of the employee AVR survey, or other mechanism approved by the Transportation Management Coordinator. This survey must not be more than six months old. For employers with 250 or more employees, the survey must conform with SCAQMD requirements. The survey must be taken over five consecutive days during which the majority of employees are scheduled to arrive at or leave the worksite. The days chosen cannot contain a holiday and cannot occur during Rideshare Week or other "event" weeks (i.e., Bicycle Week, Walk to Work Week, Transit Week, etc.). This survey must have a minimum response rate of seventy-five percent of employees who report to or leave work between six a.m. and ten a.m., inclusive, and seventy-five percent of employees who report to or leave work between three p.m. and seven p.m., inclusive. Employers that achieve a 90% or better survey response rate for the a.m. or p.m. window may count the "no-survey responses" as "other" when calculating their AVR.
- j. Provides the name and proof of certification of the Employee Transportation Coordinator who is responsible for implementation and monitoring of the plan.
- k. Provides the name of the On-Site Coordinator (if different from the ETC) for each site who is responsible for implementation and monitoring of the plan.
- l. Identifies the objectives of the plan and provides an explanation of why the plan is likely to achieve the AVR target levels.

m. Includes a Parking Cash-Out Plan if required.

n. Includes a management commitment cover letter signed by the highest ranking official on site, or the executive responsible for allocating the resources necessary to implement the plan, which includes a description of efforts taken to involve employees in the development of commute alternative strategies, a statement that employees have been notified of plan provisions at least thirty days before plan submission date, and that all data is accurate to the best of the employer's knowledge.

(3) The Employee Trip Reduction Plan shall be updated every 12 months, with an annual report submitted on the anniversary date of the initial plan approval date. Annual Employee Trip Reduction Plan shall include the following:

a. AVR calculations and documentation for the plan year.

b. Lists plan incentives, changes to plan incentives, and a schedule for their implementation.

c. Determines a marketing strategy, indicating changes from the previous plan year.

d. Determines the use of worksite parking facilities to achieve rideshare and transit objectives (i.e., number of spaces for carpools and vanpools, etc.).

e. Lists the bicycle paths and routes within ½ mile of the worksite.

f. Lists public transit services within 1/4 mile of the worksite.

g. Provides a description of the general type of business.

h. Includes a sample of the employee survey for the plan year as described in paragraph (2) of this Section.

i. Provides the name and proof of certification of the Employee Transportation Coordinator who is responsible for the preparation, implementation and monitoring of the plan.

j. Provides the name of the On-Site Coordinator (if different from the ETC) for each site who is responsible for implementation and monitoring of the plan.

k. Identifies the objectives of the plan and provides an explanation of why the plan is likely to achieve the AVR target levels.

l. Includes a management commitment letter as defined in paragraph (2) of this Section.

m. Includes update and revisions to the Employee Trip Reduction Plan as the City's Transportation Management Coordinator deems appropriate, if the annual report indicates that the goals of the previously approved Employee Trip Reduction Plan have not been met.

(4) The procedure for calculating AVR at a worksite shall be as follows:

a. The AVR calculation shall be based on data obtained from an employee survey as defined in paragraph (2) of this Section.

b. AVR shall be calculated by dividing the number of employees who report to or leave the worksite by the number of vehicles arriving at or leaving the worksite during the peak periods. All employees who report to or leave the worksite that are not accounted for by the employee survey shall be calculated as one employee per vehicle arriving at or leaving the worksite. Employees walking, bicycling, telecommuting, using public transit, arriving at the worksite in a zero-emission vehicle, or on their day off under a recognized compressed work week schedule shall be counted as employees arriving at or leaving the worksite without vehicles. Motorcycles shall be counted as vehicles.

c. A child or student may be calculated in the AVR as an additional passenger in the carpool/vanpool if the child or student travels in the car/van to a worksite or school/childcare facility for the majority (at least 51%) of the total commute.

d. If two or more employees from different employers commutes in the same vehicle, each employer must account for a proportional share of the vehicle consistent with the number of employees that employer has in the vehicle.

e. Any employee dropped off at a worksite shall count as arriving in a carpool only if the driver of the carpool is continuing on to his/her worksite.

f. Any employee telecommuting at home, off-site, or at a telecommuting center for a full work day, eliminating the trip to work or reducing the total travel distance by at least 51% shall be calculated as if the employee arrived at the worksite in no vehicle.

g. Zero Emission Vehicles (electric vehicles) shall be calculated as zero vehicles arriving at the worksite.

(5) Employers must keep detailed records of the documents which verify the Average Vehicle Ridership calculation for a period of two years from plan approval date. Records which verify strategies in the Employee Trip Reduction Plan have been marketed and implemented shall be kept for a period of at least two years from plan approval date. Approved Employee Trip Reduction Plans must be kept at the worksite for a period of at least three years from plan approval date. For employers who implement their plans using a centralized rideshare service center, records and documents may be kept at a centralized location. Failure to maintain records, or falsification of records will be deemed a violation of this Chapter.

(e) **Minimum Requirements.** Employers implementing options (a), (b) or (c), as defined in this section must meet the following minimum plan requirements:

(1) Conduct an AVR survey in accordance with the requirements of Section 9.16.070 (g) in order to receive Commute Trip Reduction Credits (CTRCs) for employees who rideshare to and from the worksite.

a. Failure to survey employees shall result in a default AVR of 1.0.

b. Employers must choose either the a.m. window (6:00 a.m. to 10:00 a.m.) or the p.m. window (3:00 p.m. to 7:00 p.m.) In which the majority of employee trips occur for the survey.

(2) Marketing Plan. Employers shall include a marketing plan to educate employers about alternative commute options by making information available to employees.

b. Information shall be posted at the worksite, or distributed to each employee at the worksite.

(3) Information shall be updated annually.

(f) Extensions. In the event that an employer reasonably needs more time to submit an Emission Reduction Plan, a written request for extension may be filed with the City's Transportation Management Coordinator. All requests must be received by the City TMP Office no later than fifteen calendar days prior to plan due date. Such requests must be made in writing and shall state why such extension is requested, what progress has been made toward developing the ERP, and for what length of time the extension is sought. The City's Transportation Management Coordinator shall notify the employer in writing whether or not the extension has been granted within fifteen calendar days of receipt of a written request for extension.

(1) An employer may request an extension up to sixty days for the initial submittal of a plan.

(2) An employer may request an extension of up to thirty days to complete a revised plan.

(3) An employer may, upon receipt of a written objection to the terms of the proposed plan by an employee, employee representative or employee organization, request a single extension for thirty calendar days. A copy of the written objection must be attached to the request. Only one such request shall be granted by the City; no subsequent extension may be granted for this purpose.

(4) The City's Transportation Management Coordinator, at his or her discretion, may grant extensions beyond sixty days in the event of an extreme emergency. Each employer's request shall be reviewed on an individual basis.

(g) **Plan Revisions.** An approved Emission Reduction Plan may be revised between plan submittal dates by submitting a plan revision in writing to the City's Transportation Management Coordinator. Any changes to an approved plan which is in effect must be submitted in writing to the Transportation Management Coordinator. The revision shall not be effective until approved by the Transportation Management Coordinator in writing.

(1) If the Transportation Management Coordinator determines that the ERP marketing strategy is not being carried out to the fullest extent, the Transportation Management Coordinator may require the employer to submit quarterly marketing reports that include examples of the marketing strategies implemented for each quarter.

(2) If it is necessary for an employer to amend an ERP before the plan can be approved, the employer shall have fifteen days from the date of notice in which to submit amendments to the Transportation Management Coordinator. Employers failing to submit the amendments shall have their ERP disapproved.

(3) The Transportation Management Coordinator shall not approve any plan or plan revisions if the employer, an employee, an employee representative or organization requests, in writing, within ten calendar days of plan submittal, that the Transportation Management Coordinator delay such action for a period of time not to exceed the 90th calendar day after plan submittal. If the request is made by a party other than the employer, the party must concurrently submit written comments to the City's Transportation Management Coordinator and the employer setting forth the objection(s). Upon receiving such a request, the Transportation Management Coordinator shall maintain neutrality with respect to any negotiations regarding the ERP. Nothing in this paragraph shall be construed to affect the requirement to implement an approved ERP and comply with applicable deadlines.

(4) An Emission Reduction Plan shall be disapproved if any employee(s), employee representative, or employee organization submits information demonstrating that:

a. The plan includes strategies, such as parking charges; and

b. Such strategies would create a widespread substantial disproportionate impact on minorities, women, low-income or disabled employees. A plan shall not be disapproved pursuant to this subdivision if it includes provisions as are necessary to ensure reasonable opportunity for employees to commute by means other than a single-occupant vehicle and thereby avoid the disproportionate impact described above. The City's Transportation Management Coordinator shall provide the employer an opportunity to review and respond in writing to information submitted by an employee, employee representative or employee organization pursuant to this subdivision. The burden of proof that a plan should be disapproved pursuant to this subdivision rests with the employee, employee representative or employee organization submitting the information.

(5) If a final determination that an element of an approved ERP violates any provision of law issued by any agency or court with jurisdiction to make such determinations, then the employer shall, within forty-five calendar days, submit a proposed plan revision to the City's Transportation Management Coordinator which shall be designed to achieve an AVR equivalent to the previously approved plan.

(h) **Employee Transportation Coordinators:** Employers of fifty or more employees shall designate a certified Employee Transportation Coordinator (ETC) or an ETC and an On-Site Coordinator for each worksite included in the Emission Reduction Plan.

(1) An employer may elect to use a Consultant ETC or a TMO/TMA in lieu of an ETC provided the Consultant ETC or the TMO/TMA staff has received certified training and the site maintains an On-site Coordinator.

(2) If the absence of a certified ETC, Consultant ETC, or On-Site Coordinator exceeds eight consecutive weeks, a substitute ETC or On-Site Coordinator at the same level must be designated and trained. Notice of such a change must be submitted to the City's Transportation Management Coordinator with proof of training no later than 12 weeks after the beginning of the absence.

(3) ETCs are not required to attend yearly update training.

(4) On-Site Coordinators are not required to be certified provided the ETC or Consultant ETC is certified and writes and administers the Emission Reduction Plan.

(i) **Emission Reduction Factors:** The following emission factors shall be used in calculations pursuant to this rule.

(1) Employee Emission Reduction Factors. The following employee emission reduction factors (pounds per year per employee) shall be used in determining the Emission Reduction Target for the current plan year:

Emission Year	VOC	NOx	CO	
			2000	4.40
			3.80	35.19
2001	4.10	3.39	32.83	
2002	3.79	3.08	30.37	
2003	3.38	3.08	28.01	

(2) The following default emission factors (pounds per year per daily commute vehicle) may be used in determining vehicle trip emission credits:

Emission Year	VOC	NOx	CO
2000	13	11	103
2001	12	10	96
2002	11	9	89
2003	10	9	82

SECTION 9.16.080. Requirements For Employers of 10-49 Employees.

(a) All employers of 10 to 49 employees shall be required to attend a City-sponsored training seminar upon notification and submit a Worksite Plan (WTP) to the City in accordance with the procedures set forth in this Section. This plan shall include at a minimum:

- (1) Worksite location.
- (2) The name and title of the highest ranking official at the site.
- (3) The name and phone number of the designated On-Site Contact who has attended a City-sponsored training program and is responsible for the implementation of the WTP.
- (4) The number of employees at the site, and proof of employee population (i.e., payroll records, unemployment insurance records, or any records approved by the Transportation Management Coordinator).
- (5) Description of the type of business.
- (6) Description of any on-site amenities
- (7) Location of the kiosk or bulletin board and a description of the information displayed.
- (8) Lists the public transit services within 1/4 mile of the worksite.
- (9) Lists the bicycle paths and routes within 1/2 mile of the worksite.
- (10) Includes a management commitment letter signed by the highest ranking official at the site.

(b) Employers of 10-49 employees shall make, at a minimum, the following information available to each employee:

- (1) Carpooling/vanpooling information, including information about the services provided by the regional ridesharing agency and their phone number.
- (2) Transit schedules and token/pass purchase information.
- (3) Information on air pollution and options to driving to work alone.
- (4) Bicycle route and facility information, including regional/local bicycle maps, locations of nearest bicycle racks, or locker storage facilities, and bicycle safety information.
- (5) Information on walking to work, pedestrian safety and walking shoe information.
- (6) Make information available to new employees upon date of hire

(c) Employers of 10 to 49 employees shall submit a Worksite Plan within sixty days of notification by the City.

(d) Employers of 10 to 49 employees shall submit yearly updated Worksite Plans in accordance with this section. Employers who fail to submit an initial plan, revised plan, or updated plan when required, shall be in violation of this Chapter.

(e) After an employer submits the Worksite Plan, the City's Transportation Management Coordinator must either approve or disapprove the plan within sixty days.

_____(1) Notice of approval or disapproval shall be given by mail. If the Worksite Plan is disapproved, the reasons shall be given in writing to the employer.

(2) Any plan disapproved by the City's Transportation Management Coordinator must be revised by the employer and resubmitted to the City's Transportation Management Coordinator within thirty calendar days of notice of disapproval or the employer shall be deemed to be in violation of Chapter 9.16 of the Municipal Code. The City has sixty calendar days to review the resubmitted plan.

(3) Upon receipt of the second disapproval notice, and until such time as a revised plan is submitted to the City's Transportation Management Coordinator, the employer is in violation of Chapter 9.16 of the Municipal Code.

SECTION 9.16.090. Procedures for Submission of Emission Reduction Plans and Worksite Transportation Plans.

(a) All employers with fifty or more employees, located within the City of Santa Monica, and subject to this Chapter shall submit to the City, within 90 days of receipt of notice to implement, an emission reduction plan designed to reduce emissions related to employee commutes and to meet a worksite specific emission reduction target (ERT) specified pounds of emissions per employee for the subsequent year. This emission reduction program shall be in the form of an Emission Reduction Plan.

(b) Employers of fifty or more employees shall identify measures in their Emission Reduction Plan that will result in attainment of their emission reduction targets through one or all of the Emission Reduction Options specified in Section 9.16.070 within ninety days of notification by the City.

(c) Employers of 10-49 employees are required to submit Worksite Plans as defined in Section 9.16.080 within sixty days of notification by the City.

(d) Multi-site employers of 250 or more employees, with one or more sites located outside of the City of Santa Monica but within the South Coast Air Basin, have the option of filing a Rule 2202 plan with the SCAQMD, or filing an Emission Reduction Plan with the City of Santa Monica. Employers choosing to file a rule 2202 plan with the SCAQMD will be required to notify the City's Transportation Management Coordinator in writing no later than fifteen days prior to the plan due date.

(e) Upon the City Transportation Management Coordinator's approval of a written request, an employer may submit a single ERP or WTP encompassing all worksites subject to the requirements of this Chapter if the worksites are owned or leased by the same employer and located wholly within the City of Santa Monica.

- (f) All employer Emission Reduction Plans and Worksite Transportation Plans shall be consistent with any plans previously submitted by the developer of the property at which the worksite is located.
- (g) If an employer's (ERP) or WTP due date falls on a day City Hall is normally closed (i.e., weekend, holiday, 9/80 Friday off), the employer may submit the ERP or WTP on the first business day after the plan due date.
- (h) If an ERP or WTP is mailed to the City, the plan must be postmarked before the plan due date. If the plan is postmarked on or after the plan due date, the plan shall be considered late and the employer shall be considered to be in violation of this Chapter.
- (i) After an employer submits a plan, the City's Transportation Management Coordinator must either approve or disapprove the plan within ninety days for an ERP and within sixty days for a WTP.
- (1) Notice of approval or disapproval shall be given by mail. If the plan is disapproved, the reasons for disapproval shall be given in writing to the employer.
- (2) Once the plan is approved, the employer will have sixty days from the date of approval to implement all aspects of the plan.
- (3) Any plan disapproved by the City's Transportation Management Coordinator must be revised by the employer and resubmitted to the City's Transportation Management Coordinator within thirty calendar days of notice of disapproval or the employer shall be deemed in violation of Chapter 9.16 of the Municipal Code. The City has ninety calendar days to review the resubmitted plan.
- (4) Upon receipt of the second disapproval notice, and until such time as a revised plan is submitted to the City's Transportation Management Coordinator, the employer is in violation of Chapter 9.16 of the Municipal Code.
- (j) An approved ERP or WTP may be revised between plan submittal dates by submitting a plan revision in writing to the City's Transportation Management Coordinator. The revision shall not be effective until approved by the Transportation Management Coordinator.
- (k) Any employer who establishes a new worksite in the City of Santa Monica, or whose employee population increases to more than 10, will be required to submit a plan to the City of Santa Monica. Employers are required to contact the City's Transportation Management Coordinator within sixty days of establishing a new worksite, or increasing employee population. The notice shall be written, and include the employer's name, the business and mailing address, the number of employees reporting to the worksite and the name of the highest ranking official at the worksite. Upon receipt of the notice, the City shall mail a notification letter to the employer and ninety calendar days thereafter the employer shall submit a plan and shall be subject to all provisions of Chapter 9.16 of the Municipal Code.
- (l) Employers who relocate to another worksite located within the City of Santa Monica shall notify the City of the relocation within thirty days. The City shall notify the employer to submit an updated version of the Employee Profile and Worksite Analysis of the ERP or WTP.
- (m) Any employer who has submitted a plan pursuant to Chapter 9.16 of the Municipal Code and whose employee population falls to fewer than 10 employees for a six month period, calculated as a

monthly average, may submit a written request to the City's Transportation Management Coordinator to be exempt from Chapter 9.16 of the Municipal Code. The employer must submit documentation which demonstrates an employee population of less than 10 employees. Such demonstration could be made by payroll records or other appropriate documentation.

(n) No employer of 250 or more employees shall be responsible for complying with this Chapter until such time as the City and the SCAQMD execute an agreement which provides an exception to those employers from the requirements of filing a Rule 2202 plan with the SCAQMD. If at any time the City fails to meet its obligation under the executed agreement, employers of 250 or more employees in the City shall be released from this Chapter and shall be subject to compliance with the SCAQMD Rule 2202 requirements.

SECTION 9.16.100. Transportation Management Associations (TMA's).

(a) Transportation Management Associations are groups formed so that employers, employees, developers, and building owners can collectively address community and worksite transportation-related problems. Transportation Management Associations may be formed to implement TDM, TSM and/or TFD strategies in employment clusters or at multi-tenant worksites. The primary function of a TMA is to pool resources to implement solutions to commuter-related congestion problems in conjunction with the City Transportation Coordinators.

(b) The City will certify TMAs that submit a first year work plan that outlines the following:

(1) A mission statement which describes the reasons for the association's existence and the overriding goals of the TMA.

(2) Goals and objectives for the first year that target achievement of the mission statement. Specific activities and tasks shall be listed to show how the members will be served by the TMA and how the TMA will help meet the area and regional transportation and air quality goals.

(3) A plan for a baseline survey of commuters and employers in the area to establish existing commuter characteristics and attitudes of commuters toward traffic and the use of commute alternatives. The employer survey shall obtain a descriptive profile of existing programs and employer attitudes toward developing new programs.

(4) The services to be provided by the TMA to its members, including the commute alternatives to be provided and promoted, the advocacy and marketing activities planned, and the role of the TMA staff in providing the services.

(5) A marketing plan that creates an identity for the TMA and describes how the TMA's planned services will be marketed to member employers and their employees.

(6) A monitoring and evaluation plan which will be used to measure progress against goals and objectives, including results of the TMA's activities with each member. This plan will be used to provide annual reporting information to the City.

(7) A budget that details how the work of the TMA will be accomplished, including details of public and private financing and expenditures.

(c) The TMA must provide an annual report to the City to become re-certified yearly. The annual report shall include the same elements as the first year plan with the following exceptions:

(1) The mission statement shall be restated based on changes in the goals and objectives of the TMA, if any.

(2) The goals and objectives shall be updated to reflect progress and changes in the TMA services.

(3) The baseline survey need not be repeated, however, the annual report shall include follow-up monitoring and evaluation activities related to the baseline survey.

(4) The evaluation and results shall be discussed and used to describe the next year's planned activities.

SECTION 9.16.110. Developer Emission Reduction Plans.

Developers of non-residential projects which will result in ten (10) or more peak period trips once the development is completed shall submit an Emission Reduction Plan to the City for implementation of selected measures from Section 9.16.070 and required measures, as applicable, from Section 9.16.120, at their development site in accordance with the procedures set forth in Section 9.16.120.

SECTION 9.16.120. Procedures for Submission of Developer Plans.

(a) Developers of non-residential projects that will generate 10 or more p.m. peak period trips who apply for building permits for new or expanded development projects in the City shall be required to submit an Emission Reduction Plan meeting the requirements of this Chapter at the time of application for the project's first planning approval. The City's Transportation Management Coordinator shall approve or disapprove the plan within thirty (30) days of project approval by the Planning Division or the City Council, when a Planning Division approval is appealed. Notice of approval or disapproval shall be given by registered or certified mail. If the plan is disapproved, the reasons for disapproval shall be given in writing to the developer. Any plan disapproved by the City's Transportation Management Coordinator must be revised by the developer and resubmitted to the City's Transportation Management Coordinator within 30 days of the notice of disapproval.

(b) Developer Emission Reduction Plans shall include those items listed in Section 9.16.070(e) which relate to facility improvements that the developers may implement, plus any improvements as

required in paragraph (c) below. Examples of developer plan elements include preferential parking areas, bicycle storage lockers, showers and lockers, and transit bays.

(c) In addition to optional or otherwise required facility improvements, the following shall be required:

(1) Non-residential development of 25,000 square feet or more shall provide, to the satisfaction of the City, a bulletin board, display case, or kiosk, displaying transportation information located where the greatest number of employees are likely to see it. Information shall include, but is not limited to, the following:

- a. Current maps, routes and schedules for public transit routes serving the site.
- b. Telephone numbers for referrals on transportation information including numbers for the regional ridesharing agency and local transit operators.
- c. Ridesharing promotional material supplied by commuter-oriented organizations.
- d. Bicycle route and facility information, including regional/local bicycle maps and bicycle safety information.
- e. A list of facilities available for carpoolers, vanpoolers, bicyclists, transit riders, and pedestrians at the site.

(2) Non-residential development of 100,000 square feet or more shall comply with the requirements in Section 9.16.120(c)(1) above, and shall provide all of the following measures to the satisfaction of the City:

- a. A safe and convenient zone in which vanpool and carpool vehicles may deliver or board their passengers.
- b. Sidewalks or other designated pathways following direct and safe routes from the external pedestrian circulation system to each building in the development.
- c. If determined necessary by the City to mitigate the project impact, bus stop improvements must be provided. The City will consult with the local bus service providers in determining appropriate improvements. When locating bus stops and/or planning building entrances, entrances must be designed to provide safe and efficient access to nearby transit stations/stops.

(d) An approved emission reduction plan shall be required prior to issuance of a building permit.

(e) Developers shall not be required to update approved Emission Reduction Plans. However, compliance with such plans shall be accomplished by the requirement set forth in Section 9.16.080 that employer worksite plans be consistent with developer plans for the worksite, unless the Transportation Management Coordinator approves alternative plan components.

(f) A developer may amend an Emission Reduction Plan subsequent to approval of such plan by submitting a plan revision. A subsequent owner may amend a plan in the same manner. The

amended plan shall not be effective until approved by the City's Transportation Management Coordinator.

SECTION 9.16.130. **Enforcement.**

(a) Audits.

_____(1) City Audits. The City shall perform follow-up audits on a selective basis. Employers shall receive at least ten days notice of such an audit. An audit may include, but shall not be limited to, an on-site inspection and demonstration that an employer is performing the on-going monitoring required by this Chapter.

(2) Compliance Inspection. Any employer subject to this Chapter is subject to an unannounced compliance inspection. This inspection will require access to records that demonstrate implementation and monitoring of the employer's Emission Reduction Plan.

(b) Violations of this Chapter.

(1) No business license shall be renewed if an employer has not paid the fee required by this Chapter.

(2) Failure to submit an initial plan when due, annual report and update plan when due, or mandatory plan revisions when due, or failure to implement provisions of an approved plan as set forth in the plan implementation schedule, failure to keep records, falsification of records, failure to have a certified ETC or designated On-Site Coordinator on site if required, or failure to submit proper fees in accordance with Section 9.16.050 is a violation of this Chapter. Additionally, upon receipt of a second disapproval notice and until such time as a revised plan is approved by the City, the developer or employer shall be deemed in violation of this Chapter.

(3) If an employer chooses the Employee Trip Reduction Option and complies with all provisions of the approved plan but fails to meet the AVR targets, that is not a violation of this Chapter. However, the Transportation Management Coordinator shall retain the right to require the employer to provide additional incentives and marketing strategies in the Employee Trip Reduction Plan with the goal of increasing the employer's AVR.

(4) If an employer chooses any Emission Reduction Option (Excluding the Employee Trip Reduction Option), the employer must meet the required emission reduction targets for that plan year. Failure to do so will be considered a violation of this Chapter.

(5) Each day a developer or employer violates the provisions of this Chapter or the terms and conditions of any approved Emission Reduction Plan or A Worksite Transportation Plan shall constitute a separate violation.

(c) Enforcement Actions. In addition to any other remedy provided for by law, the City, or the South Coast Air Quality Management District when appropriate, may take the following actions for violation of this Chapter or of the terms and conditions of any approved Emission Reduction Plan or Worksite Transportation Plan:

- (1) Require the addition of elements to a work or development site plan submitted by an employer or developer.
- (2) Transfer authority for plan implementation from an employer or developer to the City.
- (3) Institute proceedings to revoke any approval of an ERP or WTP.
- (4) Revoke the business license held by any violator, following the procedures set forth in Section 9150.6 of the Municipal Code.
- (5) Impose an enforcement fee as provided for in Section 9.16.130 (d).
- (6) Request that the City Attorney take appropriate enforcement action. Referral by the City's Transportation Management Coordinator is not a condition precedent to any enforcement action by the City Attorney.
- (7) Notwithstanding any other provisions of this Chapter regarding penalties or fees for enforcement actions or for violations, for violators with 250 or more employees, the City, in addition to any other remedies under this Chapter, shall refer the matter to the South Coast Air Quality Management District for appropriate action under Article 3, Chapter 4, Part 4 of Division 26 of the Health and Safety Code.

(d) Enforcement Fees.

(1) An enforcement fee shall be paid to the City by each person who has violated the provisions of this Chapter or the terms and conditions of any Emission Reduction Plan. The purpose of this fee is to recover the costs of enforcement from any person who violates the provisions of this Chapter or any permit or approval.

(e) Fee Assessment Fee. Fees shall be assessed as follows:

(1) Employers who choose any Emission Reduction Option (excluding the Employee Trip Reduction Option) shall be fined Five Dollars (\$5.00) per employee per day for each violation during the plan year.

(2) Developers, employers of 10-49 employees and employers of fifty or more who choose the Employee Trip Reduction Option shall receive a Warning Notice for the first violation of the plan year and no fee shall be collected. For each additional violation in the plan year the employer shall receive a violation notice and the violation fee shall be Five Dollars (\$5.00) per employee per day.

(3) The City's Transportation Management Coordinator shall cause to be issued a notice imposing enforcement fees under this Section. The notice shall provide that the fee shall be due and payable within fifteen (15) days from the date of the notice. A penalty of ten percent (10%) per month shall be added to any fees that have not been paid when due.

(4) Any person upon whom fees have been imposed pursuant to this Section may appeal the action in accordance with the following procedure:

a. A notice of appeal shall be filed with the City's Transportation Management Coordinator within ten (10) days of the date of the notice.

b. At the time of filing the notice of appeal, the appellant shall deposit with the City Treasurer money in the amount of all fees due. If, as a result of the hearing, it is determined that the City is not entitled to all or a portion of the money, the City shall refund to the person all or a portion of the money deposited.

c. The Emission Reduction Plan Appeals Board ("ERP Appeals Board") shall hold a hearing on the appeal within forty-five (45) days of the date of filing of the appeal. The City shall give the appellant at least five (5) days notice of the time and place of the hearing. The ERP Appeals Board shall render a decision within fifteen (15) days of the date of the hearing. The purpose of the hearing shall be limited to whether or not the violation occurred.

d. The ERP Appeals Board shall uphold an appeal of an enforcement fee under this Section in only one of the following circumstances:

1. An error has been made in calculating the enforcement fee.

2. The person is found not to have been violating the provisions of this Chapter or the terms and conditions of the Emission Reduction Plan or the Worksite Transportation Plan.

e. The decision of the ERP Appeals Board shall be final except for judicial review and there shall be no appeal to the City Council.

f. Any notice issued pursuant to this Section shall set forth the appeal rights as provided for in this subsection.

g. Any notice of revocation issued pursuant to this Section shall be final upon the expiration of the appeal period if no appeal is timely filed or upon the decision of the ERP Appeals Board.

SECTION 9.16.140. Administrative Appeals.

(a) Disapproval of an Emission Reduction Plan or a Worksite Transportation Plan by the City's Transportation Management Coordinator, including a revision of such a plan, may be appealed to the Emission Reduction Plan Appeals Board.

(b) An appeal of an action by the City's Transportation Management Coordinator shall be filed with the City's Parking and Traffic Division within ten (10) consecutive calendar days following the date of action from which an appeal is taken. If no appeal is timely filed, the action by the City's Transportation Management Coordinator shall be final.

- (c) A hearing on an appeal shall be scheduled within sixty (60) days of the date of filing an appeal. Notice of an appeal hearing shall be mailed to the appellant not less than ten (10) consecutive calendar days prior to the hearing scheduled before the Emission Reduction Plan Appeals Board.
- (d) A written decision on an appeal shall be issued thirty (30) days from the date of hearing.
- (e) An action of the City's Transportation Management Coordinator that is appealed to the Emission Reduction Plan Appeals Board shall not become effective unless and until approved by the Emission Reduction Plan Appeals Board.
- (f) A decision of the ERP Appeals Board shall be final except for judicial review and there shall be no appeal to the City Council.

SECTION 2. Any provision of the Santa Monica Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, are hereby repealed or modified to that extent necessary to affect the provisions of this Ordinance.

SECTION 3. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such a decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each and every section, subsection, sentence, clause or phrase not declared invalid or unconstitutional without regard to whether any portion of the Ordinance would be subsequently declared invalid or unconstitutional.

SECTION 4. The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance. The City Clerk shall cause the same to be published once in the official newspaper within 15 days after its adoption. This Ordinance shall become effective after 30 days from its adoption.

**AN ORDINANCE
OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA
ADDING CHAPTER 9.73 TO THE SANTA MONICA MUNICIPAL CODE
ESTABLISHING THE TRANSPORTATION IMPACT FEE PROGRAM,
THE TRANSPORTATION IMPACT FEE, AND
ESTABLISHING AN ADJUSTMENT AND WAIVER PROVISION**

WHEREAS, the City of Santa Monica is a small, dense, older, coastal city in a prime location, which consists of eight square miles, bordered on one side by the Pacific Ocean and on three sides by the City of Los Angeles; and

WHEREAS, the combination of a scenic oceanside location, excellent climate, and the ready availability of urban facilities, services and entertainment make Santa Monica an extremely desirable place to live, work or visit; and

WHEREAS, approximately 89,000 people live in the City, on weekdays there are about 300,000 present in the City, and on weekends and holidays the number of persons in the City soars to between 500,000 and 1 million; and

WHEREAS, because of the numbers of people who live in, commute to and from, and visit the City, the provision of an adequate transportation infrastructure is essential to the City's success; and

WHEREAS, the City has adopted a Land Use & Circulation Element (LUCE) of its General Plan for the purpose of ensuring adequate circulation thereby preserving and enhancing quality of life within the City; and

WHEREAS, objectives of the LUCE include no net new automobile PM peak hour trips; and

WHEREAS, continued new development which does not contribute toward the cost of new transportation infrastructure will only serve to further exacerbate the negative effects of increased vehicle travel; and

WHEREAS, the LUCE Goal T1 calls for designing and managing Santa Monica's streets to support comprehensive public health and safety; and

WHEREAS, LUCE Goal T19 states that the City should create an integrated transportation and land use program that seeks to limit total peak period vehicle trips with a Santa Monica origin or destination to 2009 levels; and

WHEREAS, LUCE Policy T19.7 calls for the City to perform a nexus study and implement transportation impact fee to mitigate negative transportation impacts of new development; and

WHEREAS, LUCE action items explicitly encourage the use of impact fees for pedestrian improvements, bicycle improvements, to support the Big Blue Bus and more broadly to achieve the alternative transportation choices and reduce greenhouse gas emissions; and

WHEREAS, LUCE calls for the creation of a Pedestrian Action Plan that provides a framework for prioritizing investments in pedestrian improvements and this plan is currently in development; and

WHEREAS, the Bicycle Action Plan identifies a comprehensive 5-year and 20-year bicycle network; and

WHEREAS, it is anticipated that new development will continue to occur in the City of Santa Monica; and

WHEREAS, it is appropriate for new land uses to pay for improvements to the transportation network proportionally to the number of PM peak hour trips their development contributes to the total number of trips.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SANTA MONICA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Chapter 9.73 is hereby added to the Municipal Code to read as follows:

**Chapter 9.73
Transportation Impact Fee Program**

9.73.010 Findings and Purpose.

(a) The purpose of this Chapter is to implement the goals, objectives and policies of the City of Santa Monica's Land Use & Circulation Element ("LUCE") and, particularly, the City's goal of no net new automobile PM peak hour trips occurring when new development is constructed within the City limits. Imposing a fee that is reasonably related to the burdens created by new development on the City's surface transportation system will enable the City to construct the required capital improvements that will contribute to fulfilling this goal.

(b) The City has prepared a Transportation Impact Fee Nexus Study. It shows, and the City Council finds that there is a reasonable relationship between the purpose for which the fees established by this Ordinance are to be used and the type of development projects on which the fees are imposed, and between the amount of the fees and the cost of the transportation facilities or portion of the facilities attributable to the development on which the fees are imposed.

(c) It is the intent of the City Council that the fee required by this Chapter shall be supplementary to any conditions imposed upon a development project pursuant to other provisions of the Municipal Code, the City Charter, the Subdivision Map Act, the California Environmental Quality Act, other state and local laws, which may authorize the imposition of project specific conditions on development.

9.73.020 Applicability of Chapter.

(a) The regulations, requirements and provisions of this Chapter and Council resolutions adopted pursuant hereto shall apply to all new Projects for which a development application was deemed complete or an application for changes in existing uses was made on or after the effective date of this Ordinance.

(b) Notwithstanding the above, the following projects, square footage and affordable residential units shall not be subject to the requirements of this Chapter:

- (1) places of worship;
- (2) City projects;
- (3) day care centers;
- (4) private K-12 schools;
- (5) multi-family rental housing projects developed by a nonprofit housing provider if the developer is receiving financial assistance through a public agency, so long as the multi-family rental housing project is an affordable housing project meeting the requirements of Santa Monica Municipal Code Section 9.04.02.030.65 and the project's affordable housing obligations will be secured by a regulatory agreement, memorandum of agreement, or recorded covenant with a public agency for a minimum period of fifty-five years;
- (6) re-occupancy of square footage in an existing building or structure if there is no change of use;
- (7) square footage used for outdoor dining in the public right of way; and
- (8) affordable housing units deed restricted to very-low income and low income households.

9.73.030 Definitions.

For the purpose of this Chapter, the following terms shall be defined as follows:

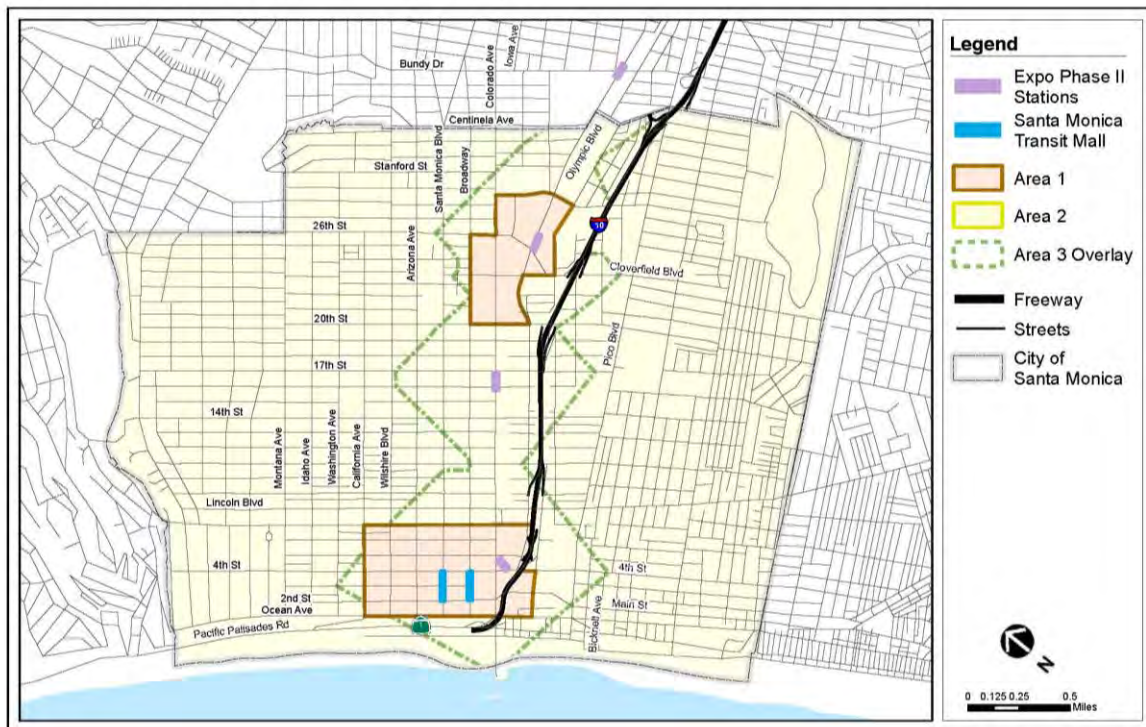
(a) "Area 1" shall mean the area bounded in the west by California Avenue from 7th Street to Ocean Avenue, in the north by 7th Street from California Avenue to Highway 10 and 4th Street from Highway 10 to Olympic Drive, in the east by Highway 10 from 7th Street to 4th Street and Olympic Drive from 4th Street to Ocean Avenue, and in the south by Ocean Avenue from California Avenue to Olympic Drive and, the area bounded in the west by Broadway from 20th Street to 26th Street and Colorado Avenue from 26th Street to Stewart Street, in the north by 26th Street from Broadway to Colorado Avenue and by Stewart Street from Colorado Avenue to Exposition Boulevard, in the east by Exposition Boulevard and Michigan Avenue from Stewart Street to Cloverfield Boulevard and Olympic Boulevard from Cloverfield Boulevard to 20th

Street, and in the south by 20th Street from Broadway to Olympic Boulevard and Cloverfield Boulevard from Olympic Boulevard to Michigan Avenue.

(b) "Area 2" shall mean any remaining area within the City boundary that are not included in Area 1.

(c) "Area 3 Overlay" shall mean a half mile walk-shed from a transit station within the City boundary. Only Housing Development Projects as defined in Section 9.73.040(a)6 may qualify for a Transportation Impact Fee based on their location within the Area 3 Overlay.

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(d) "City Projects" shall mean City public works projects and City community facilities (e.g. libraries, public parking structures, recycling centers, and community centers), not including public/private partnerships.

(e) "Housing Development Project" shall mean a development project with common ownership and financing consisting of residential use or mixed use where not less than fifty (50) percent of the floorspace is for residential use as provided in Government Code Section 66005.1(c) and its successor statutes.

(f) "Nexus Study" shall mean the Transportation Impact Fee Nexus Study prepared by Nelson/Nygaard Consulting Associates Inc, dated April 2012.

(g) "Project" shall mean any development having a gross new or additional floor area of one thousand square feet or more or that changes an existing use to a different use that increases the demand for transportation infrastructure, or residential development of improved or unimproved

land which adds dwelling units. Gross floor area for the purposes of this definition shall be the same as Section 9.04.02.030.315, or any successor legislation, but shall exclude parking area. Where the requirements of this Chapter have been adjusted or waived for a project pursuant to Section 9.73.050 hereof, subsequent changes in use, project remodels or tenant improvements that increase trip generation shall constitute a project as defined herein.

(h) "Transit Station" means a rail or light-rail station, ferry terminal, bus hub, or bus transfer station, and includes planned transit stations otherwise meeting this definition whose construction is programmed to be completed prior to the scheduled completion and occupancy of the housing development.

(i) "Transportation Impact Fee" shall mean a fee paid to the City by an applicant pursuant to Section 9.73.040 of this Chapter in connection with approval of a project, to contribute to the creation of transportation improvements to offset additional vehicle trips generated by new development to achieve No Net New Trips consistent with the goals, objectives and policies of the City's Land Use & Circulation Element ("LUCE").

9.73.040 Transportation Mitigation Requirement.

Except as provided in Section 9.73.050, the developer of a Project shall pay a transportation impact fee in accordance with the following:

- (a) Transportation Impact Fee. Fees shall be computed as follows:
1. For Single Family residential development projects that result in the addition of a dwelling unit:
 - (A) \$7,600 per multi-family dwelling unit in Area 1.
 - (B) \$7,800 per multi-family dwelling unit in Area 2.
 2. For Multi-Family residential development projects that result in the addition of a dwelling unit:
 - (A) \$2,600 per multi-family dwelling unit in Area 1.
 - (B) \$3,300 per multi-family dwelling unit in Area 2.
 - (C) \$2,600 per multi-family dwelling unit in Area 3 Overlay for Housing Development Projects that satisfy the requirements of subsection 6 (A), (B), and (C) of this subsection.
 3. All non-residential projects shall pay the following based on the gross square footage of the proposed project:
 - (A) Retail:
 - i. \$21 per square foot in Area 1.
 - ii. \$30.10 per square foot in Area 2.
 - (B) Office:
 - i. \$9.70 per square foot in Area 1.
 - ii. \$10.80 per square foot in Area 2.
 - (C) Medical Office:
 - i. \$28.10 per square foot in Area 1.
 - ii. \$29.80 per square foot in Area 2.

- (D) Hospital:
 - i. Not applicable.
 - ii. \$14.70 per square foot in Area 2.
- (E) Lodging:
 - i. \$3.60 per square foot in Area 1.
 - ii. \$3.60 per square foot in Area 2.
- (F) Industrial:
 - i. \$1.20 per square foot in Area 1.
 - ii. \$1.30 per square foot in Area 2.
- (G) Auto Sales & Display Areas:
 - i. \$1.20 per square foot in Area 1.
 - ii. \$1.30 per square foot in Area 2.

4. The land use categories identified in subsections (i) – (vi), above, shall have the following meanings:

- (A) Single Family Residential shall include Single Family.
- (B) Multi-Family Residential shall include Congregate Care- Non Senior, Congregate Care – Seniors, and Multi Family.
- (C) Retail shall include: Animal kennels and veterinary hospitals, Auto Repair, Car wash, Community meeting facilities, community centers and non-residential adult care facilities, Retail and wholesale construction-related materials, nurseries and garden centers, Entertainment and recreational facilities, Gas station, Library, Museums, aquariums and art galleries, Nightclubs and bars, Personal services, Post-secondary educational facility, Pre-school/child day care, Private studio, Restaurants – fast food and cafes, Restaurants – sit down, Retail durable goods, Retail food and markets, Retail mixed, and Retail non-food.
- (D) Office shall include: Creative office, Financial institutions and office, and General office.
- (E) Medical office shall include: Medical office, including medical clinics, and offices for medical professionals.
- (F) Hospital shall include: Full service hospitals.
- (G) Lodging shall include: Hotels, motels and other overnight accommodations.
- (H) Industrial shall include: Surface or structured auto inventory storage, City maintenance facilities and bus yards, Heavy industrial and manufacturing, Light industrial, Utilities, Warehouse and self-storage, and Wholesale distribution and shipping.

5. For mixed residential/nonresidential development, the sum of the fee required for each component as set forth above in subdivisions (a)(2) and (a)(3) of this subsection.

6. Housing Development Projects within the Area 3 Overlay that meet the following characteristics shall pay a Transportation Impact Fee of \$2,600 per multi-family dwelling unit:

- (A) The housing development is located within one-half mile of a transit station and there is direct access between the housing development and the transit station along a barrier-free walkable pathway not exceeding one-half mile in length, and
- (B) Convenience retail uses, including a store that sells food, are located within one-half mile of the housing development, and
- (C) The housing development provides either the minimum number of parking spaces required by the Municipal Code, or no more than one onsite parking space for zero to two bedroom units, and two onsite parking spaces for three or more bedroom units, whichever is less.

7. The amount of legally permitted square footage to be demolished in an existing building or structure, or to be removed from an outdoor area used as part of a service station or for auto dealer sales, display and inventory storage, as a part of a Project shall be a credit in the calculation of the Transportation Impact Fee. Outdoor area used as part of a gas station shall not include setbacks, landscaping, parking and other paved areas used solely for access and circulation.

(b) Timing of Fee Payment.

1. The Project applicant shall pay fees according to the schedule of fees in place on the date the fees are paid, except that the applicant for a vesting tentative map for a development project shall pay the fees in effect on the date the application for the vesting tentative map is deemed complete, as automatically adjusted.
2. No building permit for any Project shall be issued unless the fees have been paid or, if state law requires the City to accept later fee payment, a contract to pay the fees has been executed with the City, in which case no final inspection shall be approved until the fees have been paid. If a residential development project contains more than one dwelling unit and is approved for development in phases, the developer shall pay the fees in installments based on the phasing of the residential development project. Each fee installment shall be paid at the time when the first dwelling unit within each phase of development has received its final inspection.
3. For all Projects subject to this Chapter, the City may require the payment of fees at an earlier time if the fees will be collected for public improvements or facilities for which an account has been established and funds appropriated and for which the City has a proposed construction schedule or plan prior to final inspection, or the fees are to reimburse the City for expenditures previously made.

9.73.050 Fee Adjustments and Waivers.

(a) A developer of any Project subject to the fee described in Section 9.73.040 (a) may request that the requirements of this Chapter be adjusted or waived for the conversion of non-conforming ground floor uses in commercial zones to conforming pedestrian-oriented uses

(b) To receive an adjustment or waiver, the developer must submit an application to the Planning and Community Development Director, or his or her designee, at the time the developer files a discretionary project application or, if no discretionary application is required, a building permit application. The developer shall bear the burden of presenting a preponderance of the evidence to support the request and set forth in detail the factual and legal basis for the claim, including all supporting technical documentation.

(c) The Director of Planning and Community Development or his or her designee shall render a written decision within ninety (90) days after a complete application is filed. The Director's decision may be appealed to the Planning Commission by the Project applicant if such appeal is filed within fourteen consecutive calendar days from the date that the decision is made in the manner provided in Part 9.04.20.24, Sections 9.04.20.24.010 through 9.04.20.24.040 of this Code. The decision of the Planning Commission shall be final.

(d) If an adjustment or waiver is granted, any change in use from the approved project shall invalidate the adjustment or waiver.

9.73.060 Fee Revenue Account.

Pursuant to Government Code Section 66006, the Transportation Impact Fee Reserve Account is hereby established. The fees paid to the City pursuant to the provisions of this Chapter shall be deposited into the Transportation Impact Fee Reserve Account and used solely for the purpose described in this Chapter. All monies deposited into the Reserve Account shall be held separate and apart from other City funds. All interest or other earnings on the unexpended balance in the Reserve Account shall be credited to the Reserve Account.

9.73.070 Distribution of Transportation Impact Fee Funds.

All monies and interest earnings in the Transportation Impact Fee Reserve Account shall be expended on the construction and related design and administration costs of constructing transportation improvements identified in the Nexus Study, or such other report as may be prepared from time to time to document the reasonable fair share of the costs to mitigate the transportation impacts of new development. Such expenditures may include, but are not necessarily limited to the following:

(a) Reimbursement for all direct and indirect costs incurred by the City to construct transportation improvements pursuant to this Chapter, including but not limited to, the cost of land and right-of-way acquisition, planning, legal advice, engineering, design, construction, construction management, materials and equipment.

(b) Costs of issuance or debt service associated with bonds, notes or other security instruments issued to fund transportation improvements identified.

(c) Reimbursement for administrative costs incurred by the City in establishing or maintaining the Transportation Impact Fee Reserve Account required by this Chapter, including but not limited to the cost of studies to establish the requisite nexus between the fee amount and the use of fee proceeds and yearly accounting and reports.

9.73.080 Periodic Review and Adjustment of Transportation Impact Fees.

To account for inflation in transportation infrastructure construction costs, the fee imposed by this ordinance shall be adjusted automatically on July 1 of each fiscal year, beginning on July 1, 2013, by a percentage equal to the appropriate Construction Cost Index as published by Engineering News Record, or its successor publication, for the preceding twelve (12) months.

9.73.090 Fee Refunds.

(a) If a transportation impact fee is collected on a Project and the permit for that Project later expires, is vacated or voided before commencement of construction, the developer shall, upon request, be entitled to a refund of the unexpended transportation impact fee paid, less a portion of the fee sufficient to cover costs of collection, accounting for and administration of the fee paid. Any request for a refund shall be submitted in writing to the Planning and Community Development Director within one year of the date that the permit expires or is vacated or voided. Failure to timely submit a request for refund shall constitute a waiver of any right to a refund.

(b) Fees collected pursuant to this Chapter which remain unexpended or uncommitted for five or more fiscal years after deposit into the Transportation Impact Fee Reserve Account may be refunded as provided by state law.

9.73.100 Fee revision by resolution.

The amount of the transportation impact fees and the formula for the automatic annual adjustment established by this Chapter may be reviewed and revised periodically by resolution of the City Council. This Chapter shall be considered enabling and directive in this regard.

9.73.110 Regulations.

The Planning and Community Development Director, or her/his designee, is authorized to adopt written administrative regulations or guidelines that are consistent with and that further the terms and requirements set forth within this Chapter.

SECTION 2. This Ordinance shall apply to all development applications meeting the criteria for applicability as defined herein determined complete after the effective date of this Ordinance.

SECTION 3. Any provision of the Santa Monica Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

SECTION 4. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section,

subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 5. The Council finds that the adoption of this ordinance is not a project pursuant to CEQA Guideline section 15378(b)(4), which excludes from the definition of Project "the creation of government funding mechanisms or other government fiscal activities, which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment." Alternatively, the proposed ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) in that it can be seen with certainty that the proposed ordinance does not have the potential to significantly impact the environment, since the proposed ordinance amendment is a fee that will be levied on projects that will be evaluated in compliance with CEQA on their own merits.

SECTION 6. The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance. The City Clerk shall cause the same to be published once in the official newspaper within 15 days after its adoption. Pursuant to California Government Code section 66017(a), this Ordinance shall become effective 60 days after its adoption.

23.54.020 - Parking quantity exceptions

The parking quantity exceptions set forth in this section apply in all zones except downtown zones, which are regulated by Section 23.49.019, and Major Institution zones, which are regulated by Section 23.54.016.

A. Adding Units to Existing Structures in Multifamily and Commercial Zones.

1. For the purposes of this Section 23.54.020, "existing structures" means those structures that were established under permit, or for which a permit has been granted and has not expired as of the applicable date, as follows:
 - a. In multifamily zones, August 10, 1982;
 - b. In commercial zones, June 9, 1986.
2. In locations in a multifamily or commercial zone where there is a minimum parking requirement, one dwelling unit may either be added to an existing structure or may be built on a lot that contains an existing structure without additional parking if both of the following requirements are met:
 - a. Either the existing parking provided on the lot meets development standards, or the lot area is not increased and existing parking is screened and landscaped to the greatest extent practical; and
 - b. Any additional parking shall meet all development standards for the zone.
3. In locations in a multifamily or commercial zone where there is a minimum parking requirement, the Director may authorize a reduction or waiver of the parking requirement as a Type I decision when dwelling units are proposed to be added either to an existing structure or on a lot that contains an existing structure, in addition to the exception permitted in subsection 23.54.020.A.2, if the conditions in subsections 23.54.020.A.3.a and b below are met, and either of the conditions in subsections 23.54.020.A.3.c or d below are met:
 - a. The only use of the structure will be residential; and
 - b. The lot is not located in either the University District Parking Overlay Area (Map A for 23.54.015) or the Alki Area Parking Overlay (Map B for 23.54.015); and
 - c. The topography of the lot or location of existing structures makes provision of an off-street parking space physically infeasible in a conforming location; or
 - d. The lot is located in a residential parking zone (RPZ) and a current parking study is submitted showing a utilization rate of less than 75 percent for on-street parking within 400 feet of all lot lines.

B. Tandem Parking in Multifamily Structures.

1. Off-street parking required for multifamily structures may be provided as tandem parking, as defined in Section 23.54.030. A tandem parking space counts as one and one-half (1 ½) parking spaces, except as provided in subsection B2 below, and must meet the minimum size requirements of subsection A of Section 23.54.030.

2. When a minimum of at least one (1) parking space per dwelling unit in a multifamily structure is required, the total number of parking spaces provided, counting each tandem parking space as one space, may not be less than the total number of dwelling units.
- C. Parking Exception for Landmark Structures. The Director may reduce or waive the minimum accessory off-street parking requirements for a use permitted in a Landmark structure, or when a Landmark structure is completely converted to residential use according to Sections 23.42.108 or 23.45.506, or for a use in a Landmark district that is located in a commercial zone, as a special exception pursuant to Chapter 23.76, Procedures for Master Use Permits and Council Land Use Decisions.
1. In making any such reduction or waiver, the Director will assess area parking needs. The Director may require a survey of on- and off-street parking availability. The Director may take into account the level of transit service in the immediate area; the probable relative importance of walk-in traffic; proposals by the applicant to encourage carpooling or transit use by employees; hours of operation; and any other factor or factors considered relevant in determining parking impact.
 2. The Director may also consider the types and scale of uses proposed or practical in the Landmark structure, and the controls imposed by the Landmark designation.
 3. Such a reduction or waiver may be allowed, for conversion of structures to residential use, only if the Director also determine that there is no feasible way to meet parking requirements on the lot.
- D. Expansion of Existing Nonresidential Uses in Commercial Zones. In commercial zones additional parking spaces for nonresidential uses are not required for the expansion of existing structures if the minimum parking requirement would not be increased by more than ten (10) percent. If the minimum parking requirement would be increased by more than ten (10) percent, the parking spaces required for the entire expansion shall be provided. This exception may be used only once for any individual structure.
- E. Reductions to required parking in pedestrian-designated zones are permitted according to the provisions of Section 23.54.015 Table D.
- F. Reductions to minimum parking requirements.
1. When parking is required, reductions to minimum parking requirements permitted by this subsection 23.54.020.F will be calculated from the minimum parking requirements in Section 23.54.015. Total reductions to required parking as provided in this subsection 23.54.020.F may not exceed 50 percent.
 2. Transit reduction.
 - a. In multifamily and commercial zones, the minimum parking requirement for all uses is reduced by 50 percent if the use is located within 1,320 feet of a street with frequent transit service. This distance will be the walking distance measured from the nearest transit stop to the lot line of the lot containing the use.
 - b. In industrial zones, the minimum parking requirement for a nonresidential use is reduced by 15 percent if the use is located within 1,320 feet of a street with peak transit service headways of 15 minutes or less. This distance will be the walking

distance measured from the nearest transit stop to the lot line of the lot containing the use.

3. For new or expanding offices or manufacturing uses that require 40 or more parking spaces, the minimum parking requirement may be reduced by up to a maximum of 40 percent by the substitution of alternative transportation programs, according to the following provisions:
 - a. For every carpool space accompanied by a cash fee, performance bond or alternative guarantee acceptable to the Director, the total parking requirement will be reduced by 1.9 spaces, up to a maximum of 40 percent of the parking requirement.
 - b. For every vanpool purchased or leased by the applicant for employee use, or equivalent cash fee for purchase of a van by the public ridesharing agency, the total parking requirement will be reduced by six spaces, up to a maximum of 20 percent of the parking requirement.
 - c. If transit or transportation passes are provided with a 50 percent or greater cost reduction to all employees in a proposed structure for the duration of the business establishment(s) within it, or five years, whichever is less, and if transit service is located within 800 feet, the parking requirement shall be reduced by 10 percent. With a 25 percent to 49 percent cost reduction, and if transit service is located within 800 feet, the parking requirement shall be reduced by 5 percent.
 - d. For every four covered bicycle parking spaces provided, the total parking requirement shall be reduced by one space, up to a maximum of 5 percent of the parking requirement, provided that there is access to an arterial over improved streets.

G. Shared Parking.

1. Shared Parking, General Provisions.

- a. Shared parking is allowed between two (2) or more uses to satisfy all or a portion of the minimum off-street parking requirement of those uses as provided in subsections G2 and G3.
- b. Shared parking is allowed between different categories of uses or between uses with different hours of operation, but not both.
- c. A use for which an application is being made for shared parking must be located within eight hundred (800) feet of the parking.
- d. No reduction to the parking requirement may be made if the proposed uses have already received a reduction through the provisions for cooperative parking, subsection H.
- e. Reductions to parking permitted through shared use of parking will be determined as a percentage of the minimum parking requirement as modified by the reductions permitted in subsections A through F.
- f. An agreement providing for the shared use of parking, executed by the parties involved, must be filed with the Director. Shared parking privileges will continue

in effect only as long as the agreement, binding on all parties, remains in force. If the agreement is no longer in force, then parking must be provided as otherwise required by this chapter.

2. Shared Parking for Different Categories of Uses.

- a. A business establishment may share parking according to only one of the subsections G2b, G2c or G2d.
- b. If an office use shares parking with one of the following uses:
 - (1) general sales and services.
 - (2) heavy sales and services uses.
 - (3) eating and drinking establishments.
 - (4) lodging uses.
 - (5) entertainment.
 - (6) medical services.
 - (7) animal shelters and kennels.
 - (8) automotive sales and services, or
 - (9) maritime sales and services; the parking requirement for the non-office use may be reduced by twenty (20) percent, provided that the reduction will not exceed the minimum parking requirement for the office use.
- c. If a residential use shares parking with one of the following uses:
 - (1) general sales and services,
 - (2) heavy sales and services uses,
 - (3) medical services,
 - (4) animal shelters and kennels,
 - (5) automotive sales and services, or
 - (6) maritime sales and services; the parking requirement for the residential use may be reduced by thirty (30) percent, provided that the reduction does not exceed the minimum parking requirement for the nonresidential use.
- d. If an office and a residential use share off-street parking, the parking requirement for the residential use may be reduced by fifty (50) percent, provided that the reduction does not exceed the minimum parking requirement for the office use.

3. Shared Parking for Uses With Different Hours of Operation.

- a. For the purposes of this section, the following uses will be considered daytime uses:
 - (1) Commercial uses, except eating and drinking establishments, lodging uses, and entertainment uses;
 - (2) Storage uses;

- (3) Manufacturing uses; and
 - (4) Other similar primarily daytime uses, when authorized by the Director.
- b. For the purposes of this section, the following uses will be considered nighttime or Sunday uses:
 - (1) Auditoriums accessory to public or private schools;
 - (2) Religious facilities;
 - (3) Entertainment uses, such as theaters, bowling alleys, and dance halls;
 - (4) Eating and drinking establishments; and
 - (5) Other similar primarily nighttime or Sunday uses, when authorized by the Director.
- c. Up to ninety (90) percent of the parking required for a daytime use may be supplied by the off-street parking provided by a nighttime or Sunday use and vice-versa, when authorized by the Director, except that this may be increased to one hundred (100) percent when the nighttime or Sunday use is a religious facility.
- d. The applicant must show that there is no substantial conflict in the principal operating hours of the uses for which the sharing of parking is proposed.
- e. The establishment of park-and-pool lots is permitted, provided that the park-and-pool lot will not use spaces required by another use if there is a substantial conflict in the principal operating hours of the park-and-pool lot and the use.

H. Cooperative Parking.

- 1. Cooperative parking is permitted between two (2) or more business establishments that are commercial uses according to the provisions of this subsection.
- 2. Up to a twenty (20) percent reduction in the total number of required parking spaces for four (4) or more separate business establishments, fifteen (15) percent reduction for three (3) business establishments, and ten (10) percent reduction for two (2) commercial uses may be authorized by the Director under the following conditions:
 - a. No reductions to the parking requirement may be made if the proposed business establishments have already received a reduction through the provisions for shared parking, subsection G of this section.
 - b. Each business establishment for which the application is being made for cooperative parking is located within eight hundred (800) feet of the parking, and the parking is located in a commercial or residential-commercial zone or the Seattle Mixed (SM) zone.
 - c. The reductions to parking permitted through cooperative parking will be determined as a percentage of the minimum parking requirement as modified by the reductions permitted in subsections A through F of this section.
 - d. An agreement providing for the cooperative use of parking must be filed with the Director when the facility or area is established as cooperative parking. Cooperative parking privileges will continue in effect only as long as the agreement to use the

cooperative parking remains in force. If the agreement is no longer in force, then parking must be provided as otherwise required by this chapter. New business establishments seeking to meet parking requirements by becoming part of an existing cooperative arrangement must provide the Director with an amendment to the agreement stating their inclusion in the cooperative parking facility or area.

I. Reductions to Minimum Parking Requirements for Department of Parks and Recreation (DOPAR) Community Centers.

1. When family support centers are located within DOPAR community centers, the Director may, upon request by DOPAR, lower the combined parking requirement for the community center and the family support center up to a maximum of fifteen (15) percent.
2. The parking requirement may be reduced only if the reduction is supported by a recommendation of the Project Advisory Committee formed to review the DOPAR community center, and the Director determines and makes written findings that:
 - a. The lower parking requirement is necessary to preserve existing natural features or recreational facilities deemed significant by DOPAR and the Project Advisory Committee formed to review the DOPAR community center, and the reduction is the minimum necessary to preserve such features and/or facilities; and
 - b. The surrounding streets can accommodate overflow parking from the combined community center and family support center or, alternatively, any adverse parking impacts on the neighborhood from the combined community center and family support center will be mitigated.

J. Parking for City-recognized Car-sharing Programs.

1. For any development, one (1) space or up to five (5) percent of the total number of required spaces, whichever is greater, may be used to provide parking for vehicles operated by a car-sharing program. The number of required parking spaces will be reduced by one (1) space for every parking space leased by a car-sharing program.
2. For any development requiring twenty (20) or more parking spaces under Section 23.54.015 that provides a space for vehicles operated by a car-sharing program, the number of required parking spaces may be reduced by the lesser of three (3) required parking spaces for each car-sharing space or fifteen (15) percent of the total number of required spaces. In order to gain this exception, an agreement between the property owner and a car-sharing program must be approved by the Director and the agreement, along with a notice that the agreement is the basis for this exception to the parking requirement, must be recorded with the title to the property before a Master Use Permit is issued.

K. Peat Settlement-prone Environmentally Critical Areas. Except in Single-family, Residential Small Lot, and Lowrise zones, the Director may reduce or waive the minimum accessory off-street parking requirements to the minimum extent necessary to offset underground parking potential lost to limitations set forth in Section 25.09.110 on development below the annual high static groundwater level in peat settlement-prone areas. In making any such reduction or waiver, the Director will assess area parking needs. The Director may require a survey of on- and off-street parking availability. The Director may take into account the

level of transit service in the immediate area; the probable relative importance of walk-in traffic; proposals by the applicant to encourage carpooling or transit use by employees; hours of operation; and any other factor or factors considered relevant in determining parking impact.

- L. SM/D/40-85 zone. As a Type I decision pursuant to Chapter 23.76, Procedures for Master Use Permits and Council Land Use Decisions, the Director may reduce required parking for any proposed uses in the SM/D/40-85 zone to a level not less than the amount needed to serve parking demand to be generated by those uses as demonstrated to the satisfaction of the Director by a parking demand study performed by a licensed professional engineer and submitted by the applicant.

(Ord. 123939, § 16, 2012; Ord. 123495, § 65, 2011; Ord. 123209, § 55, 2009; Ord. 123046, § 65, 2009; Ord. 122935, § 14, 2009; Ord. 122835, § 5, 2008; Ord. 122738, § 4, 2008; Ord. 122311, § 70, 2006; Ord. 122054 § 74, 2006; Ord. 121782 § 32, 2005; Ord. 120691 § 16, 2001; Ord. 120535 § 1, 2001; Ord. 120293 § 9, 2001; Ord. 119239 § 30, 1998; Ord. 118794 § 41, 1997; Ord. 118362 § 9, 1996; Ord. 118302 § 14, 1996; Ord. 117869 § 2, 1995; Ord. 117263 § 51, 1994; Ord. 114196 § 17, 1988; Ord. 113710 § 2, 1987; Ord. 113658 § 8, 1987; Ord. 113263 § 27, 1986; Ord. 112777 § 32(part), 1986.)

33.266.110 Minimum Required Parking Spaces

A. Purpose. The purpose of required parking spaces is to provide enough on-site parking to accommodate the majority of traffic generated by the range of uses which might locate at the site over time. Sites that are located in close proximity to transit, have good street connectivity, and good pedestrian facilities may need little or no off-street parking. Multi-dwelling development that includes a large number of units may require some parking to support existing and future uses in the area and serve residents and guests, especially those with disabilities. Parking requirements should be balanced with an active pedestrian network to minimize pedestrian, bicycle and vehicle conflicts as much as possible. Transit-supportive plazas and bicycle parking may be substituted for some required parking on a site to encourage transit use and bicycling by employees and visitors to the site. The required parking numbers correspond to broad use categories, not specific uses, in response to this long term emphasis. Provision of carpool parking, and locating it close to the building entrance, will encourage carpool use.

B. Minimum number of parking spaces required.

1. The minimum number of parking spaces for all zones is stated in Table 266-1. Table 266-2 states the required number of spaces for use categories. The standards of Tables 266-1 and 266-2 apply unless specifically superseded by other portions of the City Code.
2. Joint use parking. Joint use of required parking spaces may occur where two or more uses on the same or separate sites are able to share the same parking spaces because their parking demands occur at different times. Joint use of required parking spaces is allowed only if the uses and housing types to which the parking is accessory are allowed in the zone where the parking is located. Joint use of required parking spaces is allowed if the following documentation is submitted in writing to BDS as part of a building or zoning permit application or land use review:
 - a. The names and addresses of the uses and of the owners or tenants that are sharing the parking;
 - b. The location and number of parking spaces that are being shared;
 - c. An analysis showing that the peak parking times of the uses occur at different times and that the parking area will be large enough for the anticipated demands of both uses; and
 - d. A legal instrument such as an easement or deed restriction that guarantees access to the parking for both uses.

C. Carpool parking. For office, industrial, and institutional uses where there are more than 20 parking spaces on the site, the following standards must be met:

1. Five spaces or five percent of the parking spaces on site, whichever is less, must be reserved for carpool use before 9:00 AM on weekdays. More spaces may be reserved, but they are not required.
2. The spaces will be those closest to the building entrance or elevator, but not

closer than the spaces for disabled parking and those signed for exclusive customer use.

3. Signs must be posted indicating these spaces are reserved for carpool use before 9:00 AM on weekdays.

D. Minimum for sites well served by transit. For sites located less than 1500 feet from a transit station or less than 500 feet from a transit street with 20-minute peak hour service, the minimum parking requirement standards of this subsection apply. Applicants meeting these standards must provide a map identifying the site and TriMet schedules for all transit routes within 500 feet of the site. The minimum number of parking spaces is:

1. Household Living uses. The minimum number of parking spaces required for sites with Household Living uses is:
 - a. Where there are up to 30 units on the site, no parking is required;
 - b. Where there are 31 to 40 units on the site, the minimum number of parking spaces required is 0.20 spaces per unit;
 - c. Where there are 41 to 50 units on the site, the minimum number of parking spaces required is 0.25 spaces per unit; and
 - d. Where there are 51 or more units on the site, the minimum number of parking spaces required is 0.33 spaces per unit.
2. All other uses. No parking is required for all other uses.

E. Exceptions to the minimum number of parking spaces.

1. The minimum number of required parking spaces may not be reduced by more than 50 percent through the exceptions of this subsection. The 50 percent limit applies cumulatively to all exceptions in this subsection.
2. Exceptions for sites where trees are preserved. Minimum parking may be reduced by one parking space for each tree 12 inches in diameter and larger that is preserved. A maximum of 2 parking spaces or 10 percent of the total required may be reduced, whichever is greater. However, required parking may not be reduced below 4 parking spaces under this provision.
3. Bicycle parking may substitute for up to 25 percent of required parking. For every five non-required bicycle parking spaces that meet the short or long-term bicycle parking standards, the motor vehicle parking requirement is reduced by one space. Existing parking may be converted to take advantage of this provision.
4. Substitution of transit-supportive plazas for required parking. Sites where at least 20 parking spaces are required, and where at least one street lot line abuts a transit street may substitute transit-supportive plazas for required parking, as follows. Existing parking areas may be converted to take advantage of these provisions. Adjustments to the regulations of this paragraph are prohibited.

Appendix EEE
San Francisco, California
Planning Code
Article 1.5 Off-Street Parking and Loading

§ 167.

PARKING COSTS SEPARATED FROM HOUSING COSTS IN NEW RESIDENTIAL BUILDINGS

a. All off-street parking spaces accessory to residential uses in new structures of 10 dwelling units or more, or in new conversions of non-residential buildings to residential use of 10 dwelling units or more, shall be leased or sold separately from the rental or purchase fees for dwelling units for the life of the dwelling units, such that potential renters or buyers have the option of renting or buying a residential unit at a price lower than would be the case if there were a single price for both the residential unit and the parking space. In cases where there are fewer parking spaces than dwelling units, the parking spaces shall be offered first to the potential owners or renters of three-bedroom or more units, second to the owners or renters of two bedroom units, and then to the owners or renters of other units. Renters or buyers of on-site inclusionary affordable units provided pursuant to Section 415 shall have an equal opportunity to rent or buy a parking space on the same terms and conditions as offered to renters or buyers of other dwelling units, and at a price determined by the Mayor's Office of Housing, subject to procedures adopted by the Planning Commission notwithstanding any other provision of Section 415 et seq.

b. Exception. The Planning Commission may grant an exception from this requirement for projects which include financing for affordable housing that requires that costs for parking and housing be bundled together.

AMENDMENT HISTORY

History

(Added by Ord. 217-05, File No. 050865, App. 8/19/2005; Ord. 129-06, File No, 060372, App. 6/22/2006; Ord. 72-08, File No. 071157, App. 4/3/2008; Ord. 112-08, File No. 080095, App. 6/30/2008; Ord. 62-13 , File No. 121162, App. 4/10/2013, Eff. 5/10/2013)
Division (a) references corrected; Ord. 62-13 , Eff. 5/10/2013.

33.266.110 Minimum Required Parking Spaces

A. Purpose. The purpose of required parking spaces is to provide enough on-site parking to accommodate the majority of traffic generated by the range of uses which might locate at the site over time. Sites that are located in close proximity to transit, have good street connectivity, and good pedestrian facilities may need little or no off-street parking. Multi-dwelling development that includes a large number of units may require some parking to support existing and future uses in the area and serve residents and guests, especially those with disabilities. Parking requirements should be balanced with an active pedestrian network to minimize pedestrian, bicycle and vehicle conflicts as much as possible. Transit-supportive plazas and bicycle parking may be substituted for some required parking on a site to encourage transit use and bicycling by employees and visitors to the site. The required parking numbers correspond to broad use categories, not specific uses, in response to this long term emphasis. Provision of carpool parking, and locating it close to the building entrance, will encourage carpool use.

B. Minimum number of parking spaces required.

1. The minimum number of parking spaces for all zones is stated in Table 266-1. Table 266-2 states the required number of spaces for use categories. The standards of Tables 266-1 and 266-2 apply unless specifically superseded by other portions of the City Code.
2. Joint use parking. Joint use of required parking spaces may occur where two or more uses on the same or separate sites are able to share the same parking spaces because their parking demands occur at different times. Joint use of required parking spaces is allowed only if the uses and housing types to which the parking is accessory are allowed in the zone where the parking is located. Joint use of required parking spaces is allowed if the following documentation is submitted in writing to BDS as part of a building or zoning permit application or land use review:
 - a. The names and addresses of the uses and of the owners or tenants that are sharing the parking;
 - b. The location and number of parking spaces that are being shared;
 - c. An analysis showing that the peak parking times of the uses occur at different times and that the parking area will be large enough for the anticipated demands of both uses; and
 - d. A legal instrument such as an easement or deed restriction that guarantees access to the parking for both uses.

C. Carpool parking. For office, industrial, and institutional uses where there are more than 20 parking spaces on the site, the following standards must be met:

1. Five spaces or five percent of the parking spaces on site, whichever is less, must be reserved for carpool use before 9:00 AM on weekdays. More spaces may be reserved, but they are not required.
2. The spaces will be those closest to the building entrance or elevator, but not

closer than the spaces for disabled parking and those signed for exclusive customer use.

3. Signs must be posted indicating these spaces are reserved for carpool use before 9:00 AM on weekdays.

D. Minimum for sites well served by transit. For sites located less than 1500 feet from a transit station or less than 500 feet from a transit street with 20-minute peak hour service, the minimum parking requirement standards of this subsection apply. Applicants meeting these standards must provide a map identifying the site and TriMet schedules for all transit routes within 500 feet of the site. The minimum number of parking spaces is:

1. Household Living uses. The minimum number of parking spaces required for sites with Household Living uses is:
 - a. Where there are up to 30 units on the site, no parking is required;
 - b. Where there are 31 to 40 units on the site, the minimum number of parking spaces required is 0.20 spaces per unit;
 - c. Where there are 41 to 50 units on the site, the minimum number of parking spaces required is 0.25 spaces per unit; and
 - d. Where there are 51 or more units on the site, the minimum number of parking spaces required is 0.33 spaces per unit.
2. All other uses. No parking is required for all other uses.

E. Exceptions to the minimum number of parking spaces.

1. The minimum number of required parking spaces may not be reduced by more than 50 percent through the exceptions of this subsection. The 50 percent limit applies cumulatively to all exceptions in this subsection.
2. Exceptions for sites where trees are preserved. Minimum parking may be reduced by one parking space for each tree 12 inches in diameter and larger that is preserved. A maximum of 2 parking spaces or 10 percent of the total required may be reduced, whichever is greater. However, required parking may not be reduced below 4 parking spaces under this provision.
3. Bicycle parking may substitute for up to 25 percent of required parking. For every five non-required bicycle parking spaces that meet the short or long-term bicycle parking standards, the motor vehicle parking requirement is reduced by one space. Existing parking may be converted to take advantage of this provision.
4. Substitution of transit-supportive plazas for required parking. Sites where at least 20 parking spaces are required, and where at least one street lot line abuts a transit street may substitute transit-supportive plazas for required parking, as follows. Existing parking areas may be converted to take advantage of these provisions. Adjustments to the regulations of this paragraph are prohibited.

- a. Transit-supportive plazas may be substituted for up to 10 percent of the required parking spaces on the site;
 - b. The plaza must be adjacent to and visible from the transit street. If there is a bus stop along the site's frontage, the plaza must be adjacent to the bus stop;
 - c. The plaza must be at least 300 square feet in area and be shaped so that a 10'x10' square will fit entirely in the plaza; and
 - d. The plaza must include all of the following elements:
 - (1) A plaza open to the public. The owner must record a public access easement that allows public access to the plaza;
 - (2) A bench or other sitting area with at least 5 linear feet of seating;
 - (3) A shelter or other weather protection. The shelter must cover at least 20 square feet. If the plaza is adjacent to the bus stop, TriMet must approve the shelter; and
 - (4) Landscaping. At least 10 percent, but not more than 25 percent of the transit-supportive plaza must be landscaped to the L1 standard of Chapter 33.248, Landscaping and Screening. This landscaping is in addition to any other landscaping or screening required for parking areas by the Zoning Code.
5. Motorcycle parking may substitute for up to 5 spaces or 5 percent of required automobile parking, whichever is less. For every 4 motorcycle parking spaces provided, the automobile parking requirement is reduced by one space. Each motorcycle space must be at least 4 feet wide and 8 feet deep. Existing parking may be converted to take advantage of this provision.
6. Substitution of car sharing spaces for required parking. Substitution of car sharing spaces for required parking is allowed if all of the following are met:
- a. For every car-sharing parking space that is provided, the motor vehicle parking requirement is reduced by two spaces, up to a maximum of 25 percent of the required parking spaces;
 - b. The car-sharing parking spaces must be shown on the building plans; and
 - c. A copy of the car-sharing agreement between the property owner and the car-sharing company must be submitted with the building permit.
7. Substitution of bike sharing facility for required parking. Substitution of a bike sharing facility for required parking is allowed if all of the following are met:
- a. A bike sharing station providing 15 docks and eight shared bicycles reduces the motor vehicle parking requirement by three spaces. The provision of each addition of four docks and two shared bicycles reduces

the motor vehicle parking requirement by an additional space, up to a maximum of 25 percent of the required parking spaces;

- b. The bike sharing facility must be adjacent to, and visible from the street, and must be publicly accessible;
- c. The bike sharing facility must be shown on the building plans; and
- d. Bike sharing agreement.
 - (1) The property owner must have a bike sharing agreement with a bike-sharing company;
 - (2) The bike sharing agreement must be approved by the Portland Bureau of Transportation; and
 - (3) A copy of the signed agreement between the property owner and the bike-sharing company, accompanied by a letter of approval from the Bureau of Transportation, must be submitted before the building permit is approved.

Table 266-1 Minimum Required and Maximum Allowed Parking Spaces By Zone [1]	
Zone	Requirement
OS, RF - RH, IR, CN2, CO2, CG, EG, I	Minimum is Standard A in Table 266-2. Maximum is Standard B in Table 266-2.
EX	Minimum – None, except: Household Living: minimum of 0 for 1 to 3 units, 1 per 2 units for four+ units, and SROs exempt... Maximum is Standard A in Table 266-2, except: 1) Retail, personal service, repair-oriented - Maximum is 1 per 200 sq. ft. of floor area. 2) Restaurants and bars - Maximum is 1 per 75 sq. ft. of floor area. 3) General office – Maximum is 1 per 400 sq. ft. of floor area. 4) Medical/Dental office – Maximum is 1 per 330 sq. ft. of floor area.
CN1	Minimum – None. Maximum of 1 space per 2,500 sq. ft. of site area.
CM, CS, RX, CX, CO1	Minimum – None, except:: Household Living: minimum of 0 for 1 to 30 units, 0.2 per unit for 31-40 units, 0.25 per unit for 41-50 units, and 0.33 per unit for 51+ units. Maximum is Standard B in Table 266-2.

[1] Regulations in a plan district or overlay zone may supersede the standards of this table.

Table 266-2 Parking Spaces by Use (Refer to Table 266-1 to determine which standard applies.)			
Use Categories	Specific Uses	Standard A	Standard B
Residential Categories			
Household Living		1 per unit, except SROs exempt and in RH, where it is 0 for 1 to 3 units and 1 per 2 units for four + units	None
Group Living		1 per 4 residents	None
Commercial Categories			
Retail Sales And Service	Retail, personal service, repair oriented	1 per 500 sq. ft. of floor area	1 per 196 sq. ft. of floor area
	Restaurants and bars	1 per 250 sq. ft. of floor area	1 per 63 sq. ft. of floor area
	Health clubs, gyms, lodges, meeting rooms, and similar. Continuous entertainment such as arcades and bowling alleys	1 per 330 sq. ft. of floor area	1 per 185 sq. ft. of floor area
	Temporary lodging	1 per rentable room; for associated uses such as restaurants, see above	1.5 per rentable room; for associated uses such as restaurants, see above
	Theaters	1 per 4 seats or 1 per 6 feet of bench area	1 per 2.7 seats or 1 per 4 feet of bench area
Office	General office	1 per 500 sq. ft. of floor area	1 per 294 sq. ft. of floor area
	Medical/Dental office	1 per 500 sq. ft. of floor area	1 per 204 sq. ft. of floor area
Quick Vehicle Servicing		1 per 500 sq. ft. of floor area	1 per 196 sq. ft. of floor area
Vehicle Repair		1 per 750 sq. ft. of floor area [1]	1 per 500 sq. ft. of floor area
Commercial Parking		Not applicable	None
Self-Service Storage		[2]	[2]
Commercial Outdoor Recreation		20 per acre of site	30 per acre of site
Major Event Entertainment		1 per 8 seats or per CU review	1 per 5 seats or per CU review
Industrial Categories			
Manufacturing And Production		1 per 750 sq. ft. of floor area [1]	1 per 500 sq. ft. of floor area
Warehouse And Freight Movement		1 per 750 sq. ft. of floor area for the first 3,000 sq. ft. of floor area and then 1 per 3,500 sq. ft. of floor area thereafter [1]	1 per 500 sq. ft. of floor area for the first 3,000 sq. ft. of floor area and then 1 per 2,500 sq. ft. of floor area thereafter
Wholesale Sales, Industrial Service, Railroad Yards		1 per 750 sq. ft. of floor area [1]	1 per 500 sq. ft. of floor area
Waste-Related		Per CU review	Per CU review

Use Categories	Specific Uses	Standard A	Standard B
Institutional Categories			
Basic Utilities		None	None
Community Service		1 per 500 sq. ft. of floor area	1 per 196 sq. ft. of floor area
Parks And Open Areas		Per CU review for active areas	Per CU review for active areas
Schools	Grade, elementary, middle, junior high	1 per classroom, or per CU or Impact Mitigation Plan approval	1.5 per classroom, or per CU or Impact Mitigation Plan approval
	High school	7 per classroom, or per CU or Impact Mitigation Plan approval	10.5 per classroom, or per CU or Impact Mitigation Plan approval
Medical Centers		1 per 500 sq. ft. of floor area; or per CU review or Impact Mitigation Plan approval	1 per 204 sq. ft. of floor area; or per CU review or Impact Mitigation Plan approval
Colleges		1 per 600 sq. ft. of floor area exclusive of dormitories, plus 1 per 4 dorm rooms; or per CU review or Impact Mitigation Plan approval	1 per 400 sq. ft. of floor area exclusive of dormitories, plus 1 per 2.6 dorm rooms; or per CU review or Impact Mitigation Plan approval
Religious Institutions		1 per 100 sq. ft. of main assembly area; or per CU review	1 per 67 sq. ft. of main assembly area; or per CU review
Daycare		1 per 500 sq. ft. of floor area	1 per 330 sq. ft. of floor area
Other Categories			
Agriculture		None, or per CU review	None, or per CU review
Aviation		Per CU review	Per CU review
Detention Facilities		Per CU review	Per CU review
Aggregate Extraction		Per CU review	Per CU review
Radio Frequency Transmission Facilities	Personal wireless service and other non-broadcast facilities	None	None
	Radio or television broadcast facilities	2 per site	None
Rail Lines & Utility Corridors		None	None

Notes:

- [1] For uses in an EG or I zone, if the site size is 5,000 sq. ft. or less, no more than 4 spaces are required. Where the site size is between 5,001 and 10,000 sq. ft., no more than 7 spaces are required.
- [2] Minimum of 1 per resident manager's facility, plus 3 per leasing office, plus 1 per 100 leasable storage spaces in multi-story buildings. Maximum of 2 per resident manager's facility, 5 per leasing office, 1 per 67 leasable storage spaces in multi-story buildings.

33.266.115 Maximum Allowed Parking Spaces

- A. Purpose.** Limiting the number of spaces allowed promotes efficient use of land, enhances urban form, encourages use of alternative modes of transportation, provides for better pedestrian movement, and protects air and water quality.

The maximum ratios in this section vary with the use the parking is accessory to and with the location of the use. These maximums will accommodate most auto trips to a site based on typical peak parking demand for each use. Areas that are zoned for more intense development or are easily reached by alternative modes of transportation have lower maximums than areas where less intense development is anticipated or where transit service is less frequent. In particular, higher maximums are appropriate in areas that are more than a 1/4 mile walk from a frequently served bus stop or more than a 1/2 mile walk from a frequently served Transit Station.

- B. Maximum number of parking spaces allowed.** Regulations in a plan district or overlay zone may supersede the regulations in this subsection.

1. Surface parking. Where more than 25 percent of the parking accessory to a use is on surface parking lots, both the structured and surface parking are regulated as follows. Parking accessory to a use includes accessory parking that is on- and off-site:
 - a. Generally. The maximum number of parking spaces allowed is stated in Tables 266-1 and 266-2, except as specified in subparagraph B.1.b, below;
 - b. Exception for sites not well served by transit. For sites located more than 1/4 mile from a bus stop with 20-minute peak-hour service and more than 1/2 mile from a Transit Station with 20-minute peak-hour service, the maximum number of parking spaces allowed is 125 percent of the amount stated in Tables 266-1 and 266-2. Applicants requesting this exception must provide a map identifying the site and all bus stops and Transit Stations within 1/2 mile of the site and TriMet schedules for all transit routes within 1/2 mile of the site.
2. Structured parking. Where 75 percent or more of the parking accessory to a use is in structured parking, both the structured and surface parking are regulated as follows. Parking accessory to a use includes accessory parking that is on- and off-site:
 - a. Generally. There is no maximum number of parking spaces, except as provided in subparagraph B.2.b, below;
 - b. Parking accessory to Medical Centers and Colleges. The maximum parking allowed that is accessory to Medical Centers and Colleges is stated in Tables 266-1 and 266-2.
3. Exception in the EG and I zones. In the EG and I zones, there is no maximum number of accessory parking spaces for either structured or surface parking where both B.3.a and b are met, and either B.3.c or d is met:

- a. The site is at least eight acres in area;
- b. The site is located more than 1/2 mile from a transit stop or station with 20-minute peak-hour light rail or streetcar service; and
- c. At least 700 of the accessory parking spaces are in a structure; or
- d. The structured parking is in a structure with at least three floors, and parking is on at least three floors of the structure.

33.266.120 Development Standards for Houses and Duplexes

A. Purpose. The size and placement of vehicle parking areas are regulated in order to enhance the appearance of neighborhoods.

B. Structures these regulations apply to. The regulations of this section apply to houses, attached houses, duplexes, attached duplexes, manufactured homes, and houseboats. The regulations apply to required and excess parking areas. The following are exceptions to this requirement:

1. Parking that is in a parking tract is subject to the standards of Section 33.266.130 instead of the standards of this section. However, perimeter landscaping is not required where the parking tract abuts a lot line internal to the site served by the tract.
2. Parking for manufactured dwelling parks is regulated in Chapter 33.251.

C. Parking area locations.

1. Required parking.
 - a. Generally. Required parking spaces are not allowed within the first 10 feet from a front lot line or in a required front setback, whichever is greater. In addition, on corner lots, required parking spaces are not allowed within the side street setback.
 - b. Exception for common greens and shared courts. On lots where the front lot line abuts a common green or shared court, parking spaces are allowed within 10 feet of the front lot line.
2. Non-required parking. Where non-required parking is provided on a site, at least one parking space (required or not required) must meet the standards for required parking stated in Paragraph C.1 above. A non-required parking space is allowed within the first 10 feet from a front lot line or in a required front setback if it is in a driveway immediately behind a required parking space (See Figure 266-1, Non-Required Parking). On a corner lot, where the driveway is in the required side setback, a non-required space is allowed within the first 10 feet from the side street lot line or in the required side setback if it is in a driveway immediately behind a required parking space.

17.08.330 - Electric Vehicle Charging Stations.

Electric Vehicle Charging Stations (EVCS). New residential development shall provide for EVCS in the manner prescribed as follows:

- A. Garages serving each new single-family residence and each unit of a duplex shall be constructed with a gang box (four inches by four inches) connected to a conduit linking the garage to the electrical service, with available "Level 2" plug-in voltage of two hundred forty (240) volt, in a manner approved by the building and safety official, to allow for the future installation of electric vehicle supply equipment to provide an EVCS for use by the resident.
- B. In new multiple-family projects of ten (10) dwelling units or less, twenty (20) percent of the total parking spaces required (all of the twenty (20) percent shall be located within the required covered parking) shall be provided with a gang box (four inches by four inches) connected to a conduit linking the covered parking spaces or garages with the electrical service, in a manner approved by the building and safety official, to allow for the future installation of electric vehicle supply equipment to provide EVCSs at such time as it is needed for use by residents. EVCSs shall be provided in disabled person parking spaces in accordance with state requirements.
- C. In new multiple-family projects of more than ten (10) dwelling units, ten (10) percent of the total parking spaces required (all of the ten (10) percent shall be located within the required covered parking) shall be provided with a gang box (four inches by four inches) connected to a conduit linking the covered parking spaces or garages with the electrical service, in a manner approved by the building and safety official. Of the total gang boxes provided, fifty (50) percent shall have the necessary electric vehicle supply equipment installed to provide active EVCSs ready for use by residents. The remainder shall be installed at such time as they are needed for use by residents. EVCSs shall be provided in disabled person parking spaces in accordance with state requirements.

(Ord. No. 989, § 1, 4-9-2013)

Appendix GGG

City of Lancaster, California

Municipal Code

Title 17 Zoning

Chapter 17.16 Industrial Zones

17.16.220 Design and performance standards.

Chapter 17.08 Residential Zones

Article V. Solar, Wind, and Alternative Energy Uses

17.08.330 Electric Vehicle Charging Stations.

Chapter 17.12 Commercial Zones

Article VI. Office Professional (OP) Zone

17.12.890 Design and performance standards.

Chapter 17.12 Commercial Zones

Article V. Hospital (H) Zone

17.12.700 Design requirements.

Chapter 17.12 Commercial Zones

Article II. General Commercial (C) Zone

17.12.230 Design requirements.

17.12.230 - Design requirements.

The following design requirements shall be met for development in the C zone:

A. General requirements applicable to all development:

20. Electric Vehicle Charging Stations (EVCS). New commercial development shall provide for electric vehicle charging stations in the manner prescribed as follows:
 - a. New residential uses shall provide EVCSs in accordance with Section 17.08.150T.
 - b. New commercial, industrial, and other uses with the building or land area, capacity, or numbers of employees listed herein shall provide the electrical service capacity necessary and all conduits and related equipment necessary to ultimately serve 2% of the total parking spaces with EVCSs in a manner approved by the building and safety official. Of these parking spaces, 1/2 shall initially be provided with the electric vehicle supply equipment necessary to function as on-line EVCSs upon completion of the project. The remainder shall be installed at such time as they are needed for use by customers, employees or other users. EVCSs shall be provided in disabled person parking spaces in accordance with state requirements.
 - 1) Construction of a hospital of 500 or more beds, or expansion of a hospital of that size by 20% or more.
 - 2) Construction of a post-secondary school (college), public or private, for 3,000 or more students, or expansion of an existing facility having a capacity of 3,000 or more students by an addition of at least 20%.
 - 3) Hotels or motels with 500 or more rooms.
 - 4) Industrial, manufacturing, or processing plants or industrial parks that employ more than 1,000 persons, occupy more than 40 acres of land, or contain more than 650,000 square feet of gross floor area.
 - 5) Office buildings or office parks that employ more than 1,000 persons or contain more than 250,000 square feet of gross floor area.
 - 6) Shopping centers or trade centers that employ 1,000 or more persons or contain 500,000 square feet of gross floor area.
 - 7) Sports, entertainment, or recreation facilities that accommodate at least 4,000 persons per performance or that contain 1,500 or more fixed seats.
 - 8) Transit projects (including but not limited to transit stations and park and ride lots).

17.12.700 - Design requirements.

The following design requirements shall be met for development in the H zone:

A. General requirements applicable to all development:

11. Electric Vehicle Charging Stations (EVCS). New commercial development shall provide for electric vehicle charging stations in the manner prescribed as follows:
 - a. New residential uses shall provide EVCSs in accordance with Section 17.08.150T.
 - b. New commercial, industrial and other uses with the building or land area, capacity, or numbers of employees listed herein shall provide the electrical service capacity necessary and all conduits and related equipment necessary to ultimately serve 2% of the total parking spaces with EVCSs in a manner approved by the building and safety official. Of these parking spaces, ½ shall initially be provided with the electric vehicle supply equipment necessary to function as on-line EVCSs upon completion of the project. The remainder shall be installed at such time as they are needed for use by customers, employees or other users. EVCSs shall be provided in disabled person parking spaces in accordance with state requirements.
 - 1) Construction of a hospital of 500 or more beds, or expansion of a hospital of that size by 20% or more.
 - 2) Construction of a post-secondary school (college), public or private, for 3,000 or more students, or expansion of an existing facility having a capacity of 3,000 or more students by an addition of at least 20%.
 - 3) Hotels or motels with 500 or more rooms.
 - 4) Industrial, manufacturing, or processing plants or industrial parks that employ more than 1,000 persons, occupy more than 40 acres of land, or contain more than 650,000 square feet of gross floor area.
 - 5) Office buildings or office parks that employ more than 1,000 persons or contain more than 250,000 square feet of gross floor area.
 - 6) Shopping centers or trade centers that employ 1,000 or more persons or contain 500,000 square feet of gross floor area.
 - 7) Sports, entertainment, or recreation facilities that accommodate at least 4,000 persons per performance or that contain 1,500 or more fixed seats.
 - 8) Transit projects (including but not limited to transit stations and park and ride lots).

17.12.890 - Design and performance standards.

The following design and performance standards shall be met for development in the OP zone:

18. Electric Vehicle Charging Stations (EVCS). New commercial development shall provide for electric vehicle charging stations in the manner prescribed as follows:
 - a. New residential uses shall provide EVCSs in accordance with Section 17.08.150T.
 - b. New commercial, industrial and other uses with the building or land area, capacity, or numbers of employees listed herein shall provide the electrical service capacity necessary and all conduits and related equipment necessary to ultimately serve 2% of the total parking spaces with EVCSs in a manner approved by the building and safety official. Of these parking spaces, ½ shall initially be provided with the electric vehicle supply equipment necessary to function as on-line EVCSs upon completion of the project. The remainder shall be installed at such time as they are needed for use by customers, employees or other users. EVCSs shall be provided in disabled person parking spaces in accordance with state requirements.
 - 1) Construction of a hospital of 500 or more beds, or expansion of a hospital of that size by 20% or more.
 - 2) Construction of a post-secondary school (college), public or private, for 3,000 or more students, or expansion of an existing facility having a capacity of 3,000 or more students by an addition of at least 20%.
 - 3) Hotels or motels with 500 or more rooms.
 - 4) Industrial, manufacturing, or processing plants or industrial parks that employ more than 1,000 persons, occupy more than 40 acres of land, or contain more than 650,000 square feet of gross floor area.
 - 5) Office buildings or office parks that employ more than 1,000 persons or contain more than 250,000 square feet of gross floor area.
 - 6) Shopping centers or trade centers that employ 1,000 or more persons or contain 500,000 square feet of gross floor area.
 - 7) Sports, entertainment, or recreation facilities that accommodate at least 4,000 persons per performance or that contain 1,500 or more fixed seats.
 - 8) Transit projects (including but not limited to transit stations and park and ride lots).

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17.16.050 - Accessory and temporary uses.

- C. Electric Vehicle Charging Station. An electric vehicle charging station (EVCS) shall be permitted as an accessory use within any existing legal single-family or multiple-family residential garage or carport, or within any existing legal commercial parking space in a parking lot or in a parking garage, subject to all applicable city code requirements and the following:
1. Electric vehicle charging stations (EVCS) for public use shall be subject to the following requirements:
 - a. The EVCSs shall be located in a manner which will be easily seen by the public for informational and security purposes and shall be illuminated during evening business hours; and
 - b. Be located in desirable and convenient parking locations which will serve as an incentive for the use of electric vehicles; and
 - c. The EVCS pedestals shall be protected as necessary to prevent damage by automobiles; and
 - d. The EVCS pedestals shall be designed to minimize potential damage by vandalism and to be safe for use in inclement weather; and
 - e. Complete instructions and appropriate warnings concerning the use of the EVCS shall be posted on a sign in a prominent location on each station for use by the operator; and
 - f. One standard nonilluminated sign, not to exceed 4 square feet in area and 10 feet in height, may be posted for the purpose of identifying the location of each cluster of EVCSs; and
 - g. The EVCS may be on a timer that limits the use of the station to the normal business hours of the use(s) which it serves to preclude unauthorized use after business hours.
 2. Electric vehicle charging stations for private use shall:
 - a. Be located in a manner which will not allow public access to the charging station; and
 - b. Comply with subsections C.1.c., d. and e. of this section.

17.16.220 - Design and performance standards.

The following design and performance standards shall be met for development in the I zones:

20. Electric Vehicle Charging Stations (EVCS). New commercial development shall provide for electric vehicle charging stations in the manner prescribed as follows:
 - a. New residential uses shall provide EVCSs in accordance with Section 17.08.150T.
 - b. New commercial, industrial and other uses with the building or land area, capacity, or numbers of employees listed herein shall provide the electrical service capacity necessary and all conduits and related equipment necessary to ultimately serve 2% of the total parking spaces with EVCSs in a manner approved by the building and safety official. Of these parking spaces, ½ shall initially be provided with the electric vehicle supply equipment necessary to function as on-line EVCSs upon completion of the project. The remainder shall be installed at such time as they are needed for use by customers, employees or other users. EVCSs shall be provided in disabled person parking spaces in accordance with state requirements.
 - 1) Construction of a hospital of 500 or more beds, or expansion of a hospital of that size by 20% or more.
 - 2) Construction of a post-secondary school (college), public or private, for 3,000 or more students, or expansion of an existing facility having a capacity of 3,000 or more students by an addition of at least 20%.
 - 3) Hotels or motels with 500 or more rooms.
 - 4) Industrial, manufacturing, or processing plants or industrial parks that employ more than 1,000 persons, occupy more than 40 acres of land, or contain more than 650,000 square feet of gross floor area.
 - 5) Office buildings or office parks that employ more than 1,000 persons or contain more than 250,000 square feet of gross floor area.
 - 6) Shopping centers or trade centers that employ 1,000 or more persons or contain 500,000 square feet of gross floor area.
 - 7) Sports, entertainment, or recreation facilities that accommodate at least 4,000 persons per performance or that contain 1,500 or more fixed seats.
 - 8) Transit projects (including but not limited to transit stations and park and ride lots).

Appendix HHH

State of Washington

Title 468, Chapter 468-63 WAC (last update 2/20/07)

Commute Trip Reduction Program

468-63-010 - Purpose.

(1) **Background and purpose.** This section describes the background of the commute trip reduction (CTR) law (RCW [70.94.521](#) through [70.94.555](#)) and the purpose of these rules.

(a) **Program history and goals.** Washington state's laws relating to commute trip reduction (CTR law) were adopted in 1991 and incorporated into the Washington Clean Air Act as RCW [70.94.521](#) through [70.94.551](#). The intent of the CTR law is to reduce automobile-related air pollution, traffic congestion, and energy use through employer-based programs that encourage the use of alternatives to the single-occupant vehicle traveling during peak traffic periods for the commute trip. Strategies such as these that encourage travelers to use the transportation system more efficiently are generally known as transportation demand management (TDM). In 2006, the Legislature amended the CTR law to make the program more efficient and effective.

(b) **Purpose of rules.** These rules are intended to ensure consistency in CTR plans and goals among jurisdictions while fairly taking into account differences in employment and housing density, employer size, existing and anticipated levels of transit service, special employer circumstances, and other factors the board determines to be relevant.

(2) **Program overview.** This section describes some general considerations for affected jurisdictions and employers.

(a) **Existing CTR programs.** Those jurisdictions with an existing CTR ordinance as of March 1, 2007, and the employers within those jurisdictions, shall continue to operate their existing CTR programs as necessary to comply with the requirements of the existing CTR ordinance, until the time that the jurisdiction adopts changes to its CTR ordinance to respond to changes in the CTR law and the planning requirements in these rules.

(b) **Relation to other transportation demand management requirements.** The state encourages local jurisdictions to make existing transportation demand management (TDM) requirements compatible with the requirements of RCW [70.94.521](#) through [70.94.555](#) and these rules. Several jurisdictions have implemented TDM requirements for employers or developers through the permitting of new facilities under the State Environmental Policy Act (SEPA), or through development requirements under the Growth Management Act (GMA). The state recognizes that jurisdictions may use TDM to satisfy different goals than those in the CTR law because of other considerations. The state encourages jurisdictions to review existing and proposed TDM requirements that are based on SEPA and GMA and make them compatible with the CTR law where feasible. The state intends for property owners to be treated equitably and that, wherever possible, jurisdictions reduce the conflict, duplication and higher cost of separate or conflicting TDM requirements at the same major employer worksite. To this end, the state recommends that TDM development requirements be measured using the same instruments, methodologies, and reporting requirements used for employers subject to the jurisdiction's CTR ordinance.

(c) **Interjurisdictional cooperation.** The state intends that, to the extent possible, jurisdictions in affected urban growth areas enter into cooperative arrangements for the implementation of their CTR plans. Such arrangements may be made with the county, other cities, transit agencies, regional transportation planning organizations, or other entities, as

appropriate. The arrangements may be entered into through interlocal agreements or contracts. The advantages of such arrangements include stretching the limited resources available for implementing CTR plans and facilitating consistent treatment of employers across jurisdictional boundaries.

(d) **Cooperation among affected employers.** The state encourages affected major employers to enter into cooperative arrangements with other affected major employers in their immediate vicinity for the development and implementation of CTR programs. These arrangements could be through the formation of transportation management associations (TMAs), or they could be less formal. The advantages of such cooperation include economies of scale, the potential for sharing resources, and the formation of a larger grouping of employees, making ridesharing arrangements or special transit services easier.

(e) **State agency leadership.** RCW 70.94.547 recognizes the state's crucial leadership role in establishing and implementing effective commute trip reduction programs, and intends for the department of general administration and other state agencies, including institutions of higher education, to aggressively develop substantive programs to reduce commute trips by state employees. The interagency board created in RCW 70.94.551 is responsible for developing policies and guidelines to promote consistency among state agency commute trip reduction programs and for developing the state's leadership role.

[Statutory Authority: RCW 70.94.537. WSR 07-05-065, § 468-63-010, filed 2/20/07, effective 3/23/07.]

468-63-020 - Definitions.

(1) **Definitions.** The definitions in this section apply throughout these rules.

(a) **Statutory definitions.** The terms listed in this subsection are defined in the CTR statutes (RCW 70.94.521 through 70.94.555).

(i) "A major employer" means a private or public employer, including state agencies, that employs one hundred or more full-time employees at a single worksite who begin their regular work day between 6:00 a.m. and 9:00 a.m. on weekdays for at least twelve continuous months during the year.

(ii) "Major employment installation" means a military base or federal reservation, excluding tribal reservations, at which there are one hundred or more full-time employees, who begin their regular workday between 6:00 a.m. and 9:00 a.m. on weekdays, for at least twelve continuous months during the year.

(iii) "Person hours of delay" means the daily person hours of delay per mile in the peak period of 6:00 a.m. to 9:00 a.m., as calculated using the best available methodology by the department of transportation.

(iv) "Commute trip" means trips made from a worker's home to a worksite during the peak period of 6:00 a.m. to 9:00 a.m. on weekdays.

(v) "Proportion of single-occupant vehicle commute trips" means the number of commute trips made by single-occupant automobiles divided by the number of full-time employees.

(vi) "Commute trip vehicle miles traveled per employee" means the sum of the individual vehicle commute trip lengths in miles over a set period divided by the number of full-time employees during that period.

(vii) "Growth and transportation efficiency center" means a defined, compact, mixed-use urban area that contains jobs or housing and supports multiple modes of transportation. For the purpose of funding, a growth and transportation efficiency center must meet minimum criteria

established by the commute trip reduction board under RCW 70.94.537, and must be certified by a regional transportation planning organization as established in RCW 47.80.020.

(viii) "Affected urban growth area" means:

(A) An urban growth area, designated pursuant to RCW 36.70A.110, whose boundaries contain a state highway segment exceeding the one hundred person hours of delay threshold calculated by the department of transportation, and any contiguous urban growth areas; and

(B) An urban growth area, designated pursuant to RCW 36.70A.110, containing a jurisdiction with a population over seventy thousand that adopted a commute trip reduction ordinance before the year 2000, and any contiguous urban growth areas.

(ix) "Certification" means a determination by a regional transportation planning organization that a locally designated growth and transportation efficiency center program meets the minimum criteria developed in a collaborative regional process and the rules established by the department of transportation.

(b) **Terms defined by rule.** The terms listed in this subsection are defined herein and apply throughout these rules.

(i) "Goal" means a purpose toward which efforts are directed.

(ii) "Target" means a quantifiable or measurable value that is expressed as a desired level of performance, against which actual achievement can be compared in order to assess progress.

(iii) "Drive-alone" means single-occupant vehicle.

(iv) "Single-occupant vehicle" means a motor vehicle, including a motorcycle, occupied by one person for commute purposes. If there are other passengers occupying the motor vehicle, but the ages of these passengers are sixteen or under, the motor vehicle is still considered a "single-occupant vehicle" for measurement purposes.

(v) "Nondrive-alone travel" means travel by a method other than single-occupant vehicle. Travel avoided by telework, alternative work schedules, or condensed work weeks shall also be considered as nondrive-alone travel.

(vi) "Base year value" means the measured values of the proportion of single-occupant vehicle commute trips and commute trip vehicle miles traveled per employee at a major employer worksite, on which commute trip reduction targets for the major employer worksite shall be based.

(vii) "Jurisdiction's base year measurement" means the proportion of single-occupant vehicle commute trips by CTR commuters and commute trip vehicle miles traveled per CTR commuter on which commute trip reduction targets for the local jurisdiction shall be based. The jurisdiction's base year measurement, for those jurisdictions with an affected urban growth area as of March 1, 2007, shall be determined based on employee surveys administered in the 2006-2007 survey cycle. If complete employee survey data from the 2006-2007 survey cycle is not available, then the base year measurement shall be calculated from the most recent and available set of complete employee survey data.

(viii) "Affected employee" means a full-time employee who begins his or her regular workday at a major employer worksite between 6:00 and 9:00 a.m. (inclusive) on two or more weekdays for at least twelve continuous months, who is not an independent contractor, and who is scheduled to be employed on a continuous basis for fifty-two weeks for an average of at least thirty-five hours per week.

(ix) "CTR commuter" means a resident or employee in an affected urban growth area who is a participant in the city or county's commute trip reduction program, including any growth and

transportation and efficiency center ("GTEC") programs, implemented to meet the city or county's established targets.

(x) "Commute trip vehicle miles traveled per CTR commuter" means the sum of the individual vehicle commute trip lengths in miles over a set period divided by the number of CTR commuters during that period.

(xi) "Major employer worksite" means the physical location occupied by a major employer, as determined by a local jurisdiction.

(xii) "Voluntary employer worksite" means the physical location occupied by an employer who is voluntarily implementing a CTR program.

(2) **Identification of CTR jurisdictions.** This section establishes the process to be used by WSDOT to determine the state's affected urban growth areas and lists the state's affected urban growth areas.

(a) **Process to determine affected urban growth areas.** WSDOT shall use the definition of an affected urban growth area in RCW 70.94.524 to determine the list of affected urban growth areas. WSDOT shall use the most recent set of valid and available data that covers the entire state highway system to calculate the one hundred person hours of delay threshold for state highway segments. WSDOT shall use the most recent geographical information for the state's urban growth areas as provided by the department of community, trade and economic development, or its successor.

(b) **Listing of affected urban growth areas.** The cities and counties within or containing an affected urban growth area, as determined by WSDOT, are:

(i) Clark County and the cities of Camas, Vancouver, and Washougal;

(ii) King County and the cities of Algona, Auburn, Beaux Arts, Bellevue, Black Diamond, Bothell, Burien, Clyde Hill, Covington, Des Moines, Federal Way, Hunts Point, Issaquah, Kenmore, Kent, Kirkland, Lake Forest Park, Maple Valley, Medina, Mercer Island, Newcastle, Normandy Park, Pacific, Redmond, Renton, Sammamish, SeaTac, Seattle, Shoreline, Tukwila, Woodinville, and Yarrow Point;

(iii) Kitsap County and the cities of Bainbridge Island, Bremerton, and Port Orchard;

(iv) Pierce County and the cities of Bonney Lake, DuPont, Edgewood, Fife, Fircrest, Gig Harbor, Lakewood, Milton, Orting, Puyallup, Ruston, Steilacoom, Sumner, Tacoma, and University Place;

(v) Snohomish County and the cities of Arlington, Bothell, Brier, Edmonds, Everett, Lake Stevens, Lynnwood, Marysville, Mill Creek, Monroe, Mountlake Terrace, Mukilteo, Snohomish, and Woodway;

(vi) Spokane County and the cities of Airway Heights, Liberty Lake, Millwood, Spokane, and Spokane Valley;

(vii) Thurston County and the cities of Lacey, Olympia, and Tumwater;

(viii) Whatcom County and the cities of Bellingham and Ferndale; and

(ix) Yakima County and the cities of Selah, Union Gap, and Yakima.

(c) **Listing of affected urban growth areas exempted from CTR requirements for a period not exceeding two years from March 1, 2007.** The cities or counties within an affected urban growth area, as determined by WSDOT, but which the legislature in RCW 70.94.527(12) has exempted from CTR requirements for a period not exceeding two years from March 1, 2007, are:

(i) Benton County and the cities of Kennewick, Richland, and West Richland; and

(ii) Franklin County and the city of Pasco.

(d) Notification of cities, counties, and regional transportation planning organizations (RTPOs) required to adopt CTR plans. WSDOT shall notify the cities, counties, and RTPOs that are determined to be in the affected urban growth areas. Cities and counties in the affected urban growth areas shall identify the major employers, if any, within their boundaries. Only those cities and counties containing a major employer in the affected urban growth area within the boundaries of their official jurisdiction shall be required to adopt a local CTR plan. Only those regional transportation planning organizations whose planning territory encompasses a city or county required to adopt a local CTR plan shall be required to adopt a regional CTR plan. [Statutory Authority: RCW 70.94.537. WSR 07-05-065, § 468-63-020, filed 2/20/07, effective 3/23/07.]

468-63-030 - Program goals and measurement.

(1) **Program goals.** This section establishes the goals and targets for the CTR program that every city and county shall seek to achieve at a minimum for the affected urban growth area within the boundaries of its official jurisdiction. Every two years, the state shall measure the progress of each jurisdiction and region toward their established targets for reducing drive-alone commute trips and commute trip vehicle miles traveled per CTR commuter. Local and regional goals and measurement methodologies shall be consistent with the measurement guidelines established by WSDOT and posted on the agency's web site.

(2) **Statewide minimum program goals and targets.** The goals and targets of local jurisdictions for their urban growth areas shall meet or exceed the minimum targets established in this section.

(a) The first state goal is to reduce drive-alone travel by CTR commuters in each affected urban growth area. This will help urban areas to add employment and population without adding drive-alone commute traffic. The first state target based on this goal is a ten percent reduction from the jurisdiction's base year measurement in the proportion of single-occupant vehicle commute trips (also known as drive-alone commute trips) by CTR commuters by 2011.

(b) The second state goal is to reduce emissions of greenhouse gases and other air pollutants by CTR commuters. The second state target based on this goal is a thirteen percent reduction from the jurisdiction's base year measurement in commute trip vehicle miles traveled (VMT) per CTR commuter by 2011.

(3) **Local program goals and targets.** Local jurisdictions shall establish goals and targets that meet or exceed the minimum program targets established by the state. The goals and targets shall be set for the affected urban growth area in the city or county's official jurisdiction, and shall be targets for the year 2011 based on the base year measurement for the urban growth area.

(a) Each local jurisdiction shall implement a plan designed to meet the urban growth area targets. Progress will be determined every two years based on the jurisdiction's performance in meeting its established drive-alone commute trips and VMT targets. Local jurisdictions shall establish base year values and targets for each major employer worksite in the jurisdiction. However, the targets may vary from major employer worksite to major employer worksite, based on the goals and measurement system implemented by the jurisdiction. Variability may be based on the following considerations:

- (i) Previous engagement in trip reduction programs by the employer;
- (ii) Current conditions, policies and services designed to reduce drive-alone travel in the vicinity of the major employer worksite;

(iii) Planned investments, services, policy changes and other strategies designed to reduce drive-alone travel in the vicinity of the major employer worksite;

(iv) Transit access to the employer worksite and frequency of transit service during peak periods in the vicinity of the major employer worksite;

(v) Potential for ride matching internally and with other employers in the area;

(vi) Bicycle and pedestrian access to the major employer worksite; and

(vii) Ability to implement compressed work week schedules and/or teleworking.

(b) The base year values for major employer worksites with an existing CTR program as of March 1, 2007, shall be determined based on employee surveys administered in the 2006-2007 survey cycle. If complete employee survey data from the 2006-2007 survey cycle is not available, then the base year values shall be calculated from the most recent and available set of complete CTR employee survey data. The local CTR plan shall use data from the same survey cycle to establish base year values for major employer worksites to ensure consistency.

(c) In their local CTR plans, local jurisdictions shall communicate what local, regional and state benefits would be gained if the established targets were achieved. Benefits may include but are not limited to projected changes in transportation system performance, projected reductions in emissions of pollutants, projected reductions in energy consumption, and projected benefits for economic development. Regional transportation planning organizations (RTPOs) and WSDOT shall provide applicable data, if available, to assist this analysis.

(4) **Goals for employers.** Regardless of the variations in major employer worksite targets that a jurisdiction implements, each major employer worksite shall be accountable for attaining the targets established by the jurisdiction. However, if major employer worksites are meeting the state requirements and giving a good faith effort as defined in RCW 70.94.531, local jurisdictions may not penalize the major employer for not meeting established targets.

(5) **Voluntary employer worksites.** In the local CTR plan, local jurisdictions shall indicate whether voluntary employer worksites that agree to measure will be counted in the calculation of the jurisdiction's progress toward its established targets. Regardless of whether the local jurisdiction chooses to count voluntary employer worksite measurements toward the area goal, jurisdictions shall continue to track results for those employer worksites that agree to measure.

(6) **Other local strategies for achieving the goals.** Jurisdictions may choose to institute trip reduction strategies for residents and employees in the urban growth area who are not affected by the local CTR ordinance. The progress of these efforts may be used in the jurisdiction's calculation of its progress toward its established urban growth area targets, if it is measured in a manner that is consistent with the measurement guidelines established by WSDOT and posted on the agency's web site.

(7) **Regional goal-setting.** The RTPO in its regional CTR plan shall establish regional CTR program goals and targets. The regional program goals and targets shall be developed based on a compilation of the local jurisdiction goals and targets in the region.

(8) **Conditional review of targets.** WSDOT shall evaluate the minimum state goal and target standard at least once every four years to determine whether, based on the current and planned level of support by transit agencies, local jurisdictions, and other service providers, the targets are attainable in each jurisdiction. As part of its evaluation, WSDOT shall determine the circumstances that have affected the ability of jurisdictions to meet the targets, including whether or not sufficient services and support for trip reduction have been provided.

(9) Local jurisdictions shall not be penalized for not meeting their established four-year targets if they are implementing a plan that meets state requirements and if WSDOT determines

that there are circumstances beyond the jurisdiction's control that prevented attainment of the targets.

[Statutory Authority: RCW 70.94.537. WSR 07-05-065, § 468-63-030, filed 2/20/07, effective 3/23/07.]

468-63-040 - Local commute trip reduction plan.

(1) Purpose and process.

(a) Purpose of local CTR plan. The state's intent in requiring local CTR plans is to ensure that CTR program goals and targets help jurisdictions achieve their broader transportation and land use goals, and that the jurisdiction in turn develops services, regulations, policies and programs that support the trip reduction investments of major employers. This can be achieved by integrating the local CTR plan and program with other transportation and land use plans and programs, and collaborating with local service providers, interest groups, and others to develop effective trip reduction strategies. Nothing in these rules is intended to change the requirements for local comprehensive plans developed under the Growth Management Act. The state intends for the CTR planning process to provide a new perspective on the local comprehensive plan; while a jurisdiction may choose to update or amend its comprehensive plan based on the outcome of the CTR planning process, nothing in these rules requires it.

(b) Plan development process. RCW 70.94.527(4) requires local CTR plans to be developed in consultation with local transit agencies, the applicable RTPO, major employers, and other interested parties.

(i) Consultation. The local jurisdiction shall invite, as appropriate, representatives of major employers, local transit agencies, the applicable RTPO, business associations and economic development organizations, nonprofit transportation and land use advocacy organizations, pedestrian and bicycle advocacy organizations, public health agencies, tribal governments, and residents, employees and businesses that will be affected by the CTR plan to participate in the development of the local CTR plan. The state intends for the invited partners to work collaboratively with the local jurisdiction by providing data and plans and discussing opportunities, including new and reprioritized investments and policy changes, to reduce drive-alone commute trips in the jurisdiction and increase transportation access to affected major employer worksites.

(ii) State role. WSDOT shall provide information to support local CTR plan development. This information shall include employer and jurisdiction base year values, calculated from CTR survey data, state highway system performance data, and other information as appropriate. WSDOT shall also provide technical assistance to support implementation of the local CTR plan, which may include but is not limited to:

- (A) Printing and processing of state CTR survey forms;
- (B) Creation of survey reports and customized data reports;
- (C) Online survey set-up and assistance;
- (D) Online annual report set-up and assistance; and
- (E) Program reviewer and survey training.

(iii) Regional role. It is critical that the local jurisdiction collaborate with the applicable RTPO in the development of its local CTR plan. By working closely with the RTPO, the local jurisdiction can produce a CTR plan that meets state requirements and is consistent with the regional CTR plan.

(iv) Public outreach. The local jurisdiction shall follow, at a minimum, a comparable process to the local requirements and procedures established for purposes of public outreach for comprehensive plan development, adoption, or amendment, including public notices and public meetings and hearings.

(c) **Consistency and integration with other plans, programs and local requirements.** RCW 70.94.527(5) requires local CTR plans to be consistent with applicable state and regional transportation plans and local comprehensive plans. RCW 70.94.527(5) also requires local CTR plans to be coordinated and consistent with those of adjoining jurisdictions or related regional issues to ensure consistency in the treatment of employers who have worksites in more than one jurisdiction. The local jurisdiction shall review the local comprehensive plan to ensure that it is consistent with the local CTR plan. If the local jurisdiction determines that the local comprehensive plan needs to be updated or amended to be consistent with the local CTR plan, the local jurisdiction shall identify in the local CTR plan what changes may be needed and when the changes will be made. The local jurisdiction shall use the regional CTR planning process as a means to discuss regional issues with adjoining jurisdictions. The local jurisdiction shall follow the administrative guidelines established by WSDOT and posted on the agency's web site to ensure consistency in the treatment of employers who have worksites in multiple jurisdictions.

(d) **Plan review and approval.** RCW 70.94.527(1) requires the local CTR plan to be submitted to the RTPO and be included in the regional CTR plan.

(i) Schedule. In order for a local jurisdiction to receive state CTR program funding in the 2007-2009 biennium, the CTR board must receive the final draft of the local CTR plan by October 1, 2007. For biennia after 2007-2009, the CTR board must receive updated CTR plans by March 31 every two years thereafter if updates to the local CTR plan have been made or if a jurisdiction is adopting a local CTR plan for the first time.

(ii) RTPO review. RCW 70.94.527(5) requires the RTPO to review the local CTR plans. Local jurisdictions shall submit the final draft of their local CTR plans to the applicable RTPO by the date specified by the RTPO, so that the RTPO may review the plans before submission to the CTR board. The RTPO will review the local CTR plan to determine its consistency with the regional CTR plan and state requirements.

(iii) Determination of consistency. RCW 70.94.527(7) requires the RTPO to collaborate with the CTR board to evaluate the consistency of local CTR plans with the regional CTR plan. When the RTPO submits its regional CTR plan to the CTR board, it shall also submit any final drafts of local CTR plans in the region and recommend to the CTR board which local CTR plans are consistent with the regional CTR plan and state requirements.

(iv) Approval by CTR board. RCW 70.94.527(7) requires local CTR plans to be approved by the CTR board in order to be eligible for state CTR funding. The CTR board shall review the final drafts of local CTR plans and communicate its findings in writing to the submitting RTPO within one hundred twenty days following receipt of the plans. If the CTR board approves a local CTR plan, the local jurisdiction shall then adopt the local CTR plan by ordinance and begin to implement the plan and any other necessary changes to local ordinances, plans, or programs. If the CTR board rejects a local CTR plan, it shall communicate its reasoning and recommendations for improvement to the submitting RTPO. The RTPO shall then work with the local jurisdiction to improve the local plan. Jurisdictions may submit a revised local CTR plan to the RTPO and CTR board in the schedule jointly established by the RTPO and the CTR board.

(v) Appeal. If a local CTR plan is not approved by the CTR board, the local jurisdiction may choose to appeal the decision to the secretary of transportation or his/her designee within sixty

days of the board's decision by submitting a written request for appeal to the secretary of transportation or his/her designee. The secretary of transportation or his/her designee shall consider the appeal within sixty days of the jurisdiction's request. If the secretary of transportation or his/her designee grants the appeal, the local CTR plan shall be considered valid by the CTR board and RTPO. If the secretary of transportation or his/her designee denies the appeal, the local jurisdiction is not eligible for state CTR program funding until its revised plan is submitted and approved by the CTR board.

(e) **Plan update cycle.** According to RCW 70.94.527(5), local jurisdictions shall review their local CTR plans annually and revise them as necessary to be consistent with applicable plans developed under RCW 36.70A.070. The local CTR plan shall be updated at least once every four years, in order to establish new four-year targets and program strategies and update other elements as needed.

(2) **Required plan elements.** RCW 70.94.527(4) requires affected local governments to adopt CTR plans consistent with the rules and deadlines established by WSDOT. The state intends for local jurisdictions to use information in existing plans and programs, such as the local comprehensive plan, unified development codes, the transportation improvement program, economic development plans, and others, as much as possible in order to develop the local CTR plan. The local CTR plan is required to meet the requirements specified in these rules, but local jurisdictions may choose to adjust the scope of their local CTR plans as needed to make them more effective. The local CTR plan shall describe how the CTR program will help achieve the jurisdiction's broader land use and transportation goals.

The local CTR plan shall contain the following elements:

(a) **Description of land use and transportation context.** Jurisdictions shall evaluate the significance of local land use and transportation conditions, characteristics and trends to describe the most critical factors to the success of CTR.

The plan shall highlight the existing and future land use and transportation conditions and characteristics considered most critical by the jurisdiction and evaluate the degree to which existing local services, policies, regulations, and programs, as well as any documented future investments, will complement the trip reduction efforts of CTR employers. Jurisdictions may choose to broaden the scope of their local CTR plan by developing a jurisdiction-wide analysis, rather than focusing only on major employers.

The plan shall evaluate the existing barriers to the success of the CTR program, and identify how the jurisdiction and its partners can overcome these barriers. The state intends for the plan to be a mechanism through which employers can describe what policy changes, services and support they need to make their CTR programs more effective.

The plan shall also discuss cross-boundary issues, such as pass-through commute patterns or larger regional issues, and how these affect the local CTR plan.

(b) **Goals and targets.** The plan shall establish the jurisdiction's CTR goals and targets and show how achievement of these goals and targets will contribute to the jurisdiction's other adopted land use and transportation goals. The plan's goals and targets shall be established at a level that meets or exceeds the state minimum standard described in WAC 468-63-030, Program goals and measurement. The plan shall describe the base year values and numerical targets for each major employer worksite required to participate in the CTR program.

(c) **Measurement methodology for determining base year values and progress toward meeting goals and targets.** The plan's measurement methodology shall be consistent with the measurement guidelines established by WSDOT and posted on the agency's web site.

(d) **Description of local services and strategies for achieving the goals and targets.** The plan shall describe what local services and strategies will be implemented to achieve the plan's goals and targets, and how these services and strategies will support the CTR programs of major employers. Strategies may include, but are not limited to:

(i) Modifications of local policies and regulations, including the transportation concurrency system, street design standards, parking, and zoning;

(ii) Investments in services and facilities, including transit services, nonmotorized facilities and amenities; and

(iii) Marketing and incentives.

Transit agencies shall work with counties, cities and towns as a part of their six-year transit development plan established in RCW 35.58.2795 to take into account the location of major employer worksites when planning and prioritizing transit service changes or the expansion of public transportation services, including rideshare services (RCW 70.94.527(5)).

(e) **Description of requirements for major employers.** The plan shall describe the requirements for major employers that will be outlined in the local ordinance. The plan shall also describe the program that the local jurisdiction will offer to its employees and how this contributes to the success of the overall plan. The plan shall also identify the major employer worksites, including affected state agency locations, within the jurisdiction's affected urban growth area and any major employment installations.

(f) **Documentation of consultation.** The plan shall include documentation from the local jurisdiction that verifies consultation with employers, transit agencies and others to develop the plan. If the CTR plan includes new or reprioritized transit service beyond that identified in the six-year transit development plan as a strategy to meet the goals and targets, the plan shall include acknowledgement from the applicable transit agency that it supports the transit element of the plan and has agreed on a plan to fund future service investments. If the plan submittal to the CTR board does not include acknowledgement of support from the applicable transit agency, then the new or reprioritized transit service element of the plan shall not be considered as a valid strategy to meet the plan's goals and targets.

(g) **A sustainable financial plan.** The plan shall describe the funding revenues from public and private sources that are reasonably expected to be available, as well as the expected costs, to implement the plan and achieve its goals and targets. If a jurisdiction identifies program elements that are not necessary to the success of the plan, but would support the plan and are beyond expected resources, the plan shall describe the level of funding that would be needed to implement the program element and how it would contribute to the success of the plan.

(h) **Implementation structure.** The plan shall describe how the various strategies identified in the CTR plan will be implemented, either by the local jurisdiction, its partners, or its contracting partners, and when the elements of the plan are expected to be implemented. If the local jurisdiction decides to update its comprehensive plan to be consistent with the CTR plan, it shall describe which elements need updating and when the update will occur.

(i) **Growth and transportation efficiency centers.** If the jurisdiction has designated a growth and transportation efficiency center, the local jurisdiction shall summarize and incorporate the GTEC program plan into the local CTR plan in the next update of the plan.

[Statutory Authority: RCW 70.94.537. WSR 07-05-065, § 468-63-040, filed 2/20/07, effective 3/23/07.]

468-63-050 - Regional commute trip reduction plan.

(1) Purpose and process.

(a) **Purpose of regional CTR plan.** The state's intent in requiring regional CTR plans is to ensure that the region develops a consistent, integrated regional strategy for meeting CTR goals and targets. The region shall use existing plan information as much as possible to determine how the CTR program can help the region achieve its transportation goals. The state intends for CTR services and strategies to be prioritized in regional funding programs.

(b) **Plan development process.** RCW 70.94.527(6) requires the regional CTR plan to be developed in collaboration with all affected local jurisdictions, transit agencies, and other interested parties within the region.

(i) Collaboration. The RTPO shall invite, as appropriate, local jurisdictions, local transit agencies, major employers, business associations and economic development organizations, nonprofit transportation and land use advocacy organizations, pedestrian and bicycle advocacy organizations, public health agencies, tribal governments, and others as necessary to participate in the development of the regional CTR plan's goals, targets and strategies.

(ii) Development of regional GTEC criteria. The RTPO shall develop minimum land use and transportation criteria for GTECs in collaboration among local jurisdictions, transit agencies, major employers, and other affected parties as part of the regional CTR plan. The state intends for minimum land use and transportation criteria for GTECs to be developed as early in the regional planning process as possible.

(iii) Regional role. The state intends for the RTPO to coordinate the local and regional CTR planning process, and work closely with local jurisdictions to ensure consistency in all of the plans. The RTPO shall provide data and technical assistance to local jurisdictions to aid the development of their local CTR plans.

(iv) Planning framework. The state intends for local plans to follow a planning framework established by the RTPO. However, the state recognizes that during the initial planning phase in fiscal year 2007, development of local and regional CTR plans will be a concurrent, iterative process. Thus the state intent that RTPOs lead the planning process.

(c) **Identification of lead agencies.** The regional CTR plan shall describe which entities will be implementing the CTR program for each city and county, as determined locally. This description shall include an identification of lead agencies and the expected contractual relationships for program administration.

(d) **Consistency and integration with other plans, programs and local requirements.** RCW 70.94.527(6) requires the regional CTR plan to be consistent with and incorporated into transportation demand management (TDM) components in the regional transportation plan (as required by RCW 47.80.030). The regional CTR plan shall be consistent with TDM components in the regional transportation plan. The regional CTR plan shall be incorporated by the RTPO into the regional transportation plan by December 31, 2008.

(e) **Plan review and approval.** According to RCW 70.94.527(6), regions without an approved regional CTR plan shall not be eligible for state CTR funds.

(i) Schedule. For jurisdictions in the region to receive CTR program funding, the CTR board must receive final draft regional CTR plans by October 1, 2007, and by March 31 every two years thereafter, if updates have been made to the regional CTR plan or if the RTPO is adopting a regional CTR plan for the first time.

(ii) **Submittal.** RCW 70.94.527(7) requires RTPOs to submit their regional CTR plans, related local CTR plans, and certified GTEC programs to the CTR board. By October 1, 2007, and by March 31 every two years thereafter, the RTPO shall submit the regional CTR plan, all local CTR plans in the region, and GTEC certification reports to the CTR board. Local and regional CTR plan submittals shall include documentation of support from the applicable transit agencies if the plans include a transit element.

(iii) **Determination of consistency.** RCW 70.94.527(7) requires the RTPO to collaborate with the CTR board to evaluate the consistency of local CTR plans with the regional CTR plan. When the RTPO submits local CTR plans to the CTR board, it shall also submit its determination of which local CTR plans are consistent with the regional CTR plan and meet state requirements. If any plans are not consistent or do not meet state requirements, the RTPO shall describe its reasoning and what changes need to be made to the plan before it is approved. The CTR board shall use the RTPO recommendation during its review of the local and regional CTR plans.

(iv) **Approval.** According to RCW 70.94.527(7), regional CTR plans must be approved by the CTR board to be eligible for state CTR funding. The CTR board shall review the regional CTR plan and notify the RTPO in writing whether it approves or denies the plan. If the regional CTR plan is approved, jurisdictions in the region are eligible for state CTR funding. If the regional CTR plan is not approved, the CTR board shall state its reasoning and recommendations for improvement to the RTPO. The RTPO may then choose to submit its revised plan to the CTR board by the deadline established by the CTR board or to appeal the decision.

(v) **Appeal.** If a regional CTR plan is not approved by the CTR board, the RTPO may choose to appeal the decision to the secretary of transportation or his/her designee within sixty days of the board's decision by submitting a written request for appeal to the secretary of transportation or his/her designee. The secretary of transportation or his/her designee shall consider the appeal within sixty days of the RTPO's request. If the secretary of transportation or his/her designee grants the appeal, the regional CTR plan shall be considered valid by the CTR board. If the secretary of transportation or his/her designee denies the appeal, the region is not eligible for state CTR program funding until a revised regional CTR plan is submitted and approved by the CTR board.

(f) **Annual progress report.** RCW 70.94.527(8) requires RTPOs with a regional CTR plan to submit an annual progress report to the CTR board at the end of each state fiscal year. The RTPO is required to submit a progress report to the CTR board by June 30, 2008, and every year thereafter. The report shall describe progress in achieving the regional CTR goals and targets and shall highlight any problems being encountered in achieving the goals and targets. The information shall be reported in a form established by the CTR board.

(g) **Plan update cycle.** The regional CTR plan shall be updated concurrent with the schedule for the regular update of the regional transportation plan or in order to establish new regional goals and targets and incorporate information from updated local CTR plans.

(2) **Required plan elements.** RCW 70.94.527(6) requires affected RTPOs to adopt a regional CTR plan consistent with the rules and deadlines established by WSDOT.

The regional CTR plan shall contain the following elements:

(a) **Description of land use and transportation context.** The state intends for RTPOs to evaluate the significance of regional land use and transportation conditions, characteristics and trends to highlight factors that are considered critical to the success of the regional CTR plan.

The plan shall discuss the existing and future land use and transportation conditions and characteristics considered most critical by the RTPO and evaluate the degree to which existing

local services, policies, regulations, and programs, as well as any documented future investments, will complement the trip reduction efforts of major employers and help employer programs be more effective.

The plan shall evaluate the existing barriers to the success of the CTR plan, and identify how the RTPO and its partners can overcome these barriers.

The plan shall also discuss cross-boundary issues, such as pass-through commute patterns or extra-regional issues, and how these affect the regional plan.

(b) **Minimum criteria for growth and transportation efficiency centers.** The RTPO shall adopt minimum transportation and land use criteria that are appropriately scaled to the regional context. The RTPO may establish either absolute or relative criteria. The regional criteria may include, but are not limited to:

- (i) Consistency with local and regional CTR plans and local comprehensive plans;
- (ii) Support achievement of goals in the regional transportation plan;
- (iii) Minimum existing and/or target density thresholds (i.e., activity density, population density, or employment density);
- (iv) Minimum and maximum geographic sizes;
- (v) Existing and targeted levels of transit service;
- (vi) Existing and targeted commute trip mode splits;
- (vii) Current and forecasted level of delay on state and regional facilities of significance;
- (viii) Number of employees and/or residents;
- (ix) Maximum parking development ratios for new commercial and residential development;
- (x) Pricing strategies affecting parking demand (commuter and transient); and
- (xi) Bicycle and pedestrian accessibility.

(c) **Regional program goals and targets.** The plan shall describe the established CTR goals and targets for each of the region's affected urban growth areas and designated GTECs. The plan shall also describe the entire region's goals and targets for CTR and how the regional goals and targets relate to the local goals and targets. The plan shall describe how the regional CTR goals and targets will help the region achieve its other transportation goals.

(d) **Description of how progress will be measured.** The plan shall describe how the measurement of local CTR plan progress will be used to assess regional progress toward CTR goals and targets. The plan's measurement methodology shall be consistent with the measurement guidelines established by WSDOT and posted on the agency's web site.

(e) **Description of regional strategies for achieving the goals and targets.** The plan shall describe what regional services and strategies will be implemented to achieve the plan's goals and targets, and how these services and strategies will support major employer programs and local CTR plans. The regional services and strategies may include modifying regional funding allocations and program prioritization criteria to support the regional CTR plan.

(f) **A sustainable financial plan.** The plan shall describe the funding revenues from public and private sources that are reasonably expected to be available, as well as the expected costs, to implement the plan and achieve its goals and targets. If a RTPO identifies program elements that are not necessary to the success of the plan, but would support the plan and are beyond expected resources, the plan shall describe the level of funding that would be needed to implement the program element and how it would contribute to the success of the plan.

[Statutory Authority: RCW [70.94.537](#). WSR 07-05-065, § 468-63-050, filed 2/20/07, effective 3/23/07.]

468-63-060 - Growth and transportation efficiency centers.

(1) Purpose and process.

(a) **Purpose and objective of the growth and transportation efficiency center (GTEC) program.** The state's goal for the GTEC program is to provide greater access to employment and residential centers while increasing the proportion of people not driving alone during peak periods on the state highway system. Counties, cities and towns may designate existing or new activity centers as GTECs in order to establish a transportation demand management (TDM) program in the designated area. The purpose of the rules pertaining to GTECs is to provide a consistent framework for local jurisdictions to exercise their authority to implement a GTEC via comprehensive plans, development regulations, and transportation investments that support population growth and economic development, transportation-efficient land uses, and transportation demand management strategies.

The state intends for GTECs to be developed in a collaborative planning process that builds upon the information in local and regional CTR plans as well as other existing plans and programs such as the local comprehensive plan, unified development codes, the transportation improvement program, economic development plans. The state intends for the development of the GTEC program plan to be informed by and coordinated with the development of local and regional CTR plans.

The state intends to focus state program resources provided for GTECs in those urban areas that can provide the greatest current or future benefits for highway system efficiency.

(b) **Jurisdictional coordination.** The state encourages jurisdictions to discuss interjurisdictional issues and evaluate the possibility of creating a cross-boundary GTEC. While these rules refer to the actions of a single city or county in designating a GTEC, nothing in these sections shall prohibit jurisdictions from cooperating to designate GTECs that cross jurisdictional boundaries. Jurisdictions designating a cross-boundary GTEC shall adopt consistent ordinances and enter into a cooperational partnership to implement the GTEC program.

(c) **Consistency for employers.** Major employers that are affected by the base CTR program, when located within a designated GTEC, shall only be required to fulfill one set of requirements, if the GTEC program and base CTR program requirements vary. Jurisdictions that allow major employers to follow the requirements of the GTEC, rather than the base CTR program, shall ensure that major employer worksites are measured in a manner that allows accountability for the worksite and is consistent with the measurement guidelines established by WSDOT and available on the agency's web site.

(d) **Designation and certification.** RCW [70.94.537\(2\)](#) requires WSDOT to establish methods for RTPOs to evaluate and certify that designated GTECs meet the minimum requirements and are therefore eligible for funding.

(i) **Minimum land use and transportation criteria.** RCW [70.94.537\(2\)](#) requires WSDOT to establish guidance criteria for GTECs. Minimum land use and transportation criteria for GTECs shall be developed by the RTPO in collaboration with local jurisdictions, transit agencies, major employers, and other affected parties as part of the regional CTR plan. The regional CTR plan may include a map that depicts which areas of the region meet the criteria.

The state's intent is to constrain funding resources to those areas that have the greatest potential to reduce single-occupant vehicle commute trips on the state highway system in the

future. The state will use the RTPO certification of the GTEC's potential system benefits as part of its funding prioritization process.

(ii) Eligibility and designation process. To be eligible for certification as a designated "growth and transportation efficiency center," the jurisdiction must submit a GTEC certification application to the applicable RTPO that:

(A) Describes how the GTEC meets the minimum land use and transportation criteria established by the RTPO as part of the regional CTR plan;

(B) Includes a copy of the GTEC program plan and the required elements identified in this rule;

(C) Identifies when and how the GTEC program plan will be incorporated into future updates or amendments of the applicable local comprehensive plan; and

(D) Includes letters of support for the GTEC program plan from partners that are expected to contribute resources to the plan or intend to work with the local jurisdiction to develop future strategies and funding resources for the GTEC.

(iii) Schedule. For GTEC programs to be eligible for state CTR program funds, the CTR board must receive GTEC certification reports, or local jurisdiction requests for appeal, for new or updated GTEC programs by October 1, 2007, and by April 1 every two years thereafter.

These rules do not constrain the ability of local jurisdictions to designate a GTEC at any time, or for RTPOs to certify new or updated GTECs at any time.

GTEC program plans may be updated annually to reflect changing conditions and new information. However, substantial changes to the program plan, including reductions in targets, densities, and investments, may be made no more than once every biennium. RTPOs may require local jurisdictions to update GTEC program plans as part of the regional CTR plan update. Substantially modified GTEC program plans shall be resubmitted to the RTPO for recertification.

(iv) Certification. RCW 70.94.528 (1)(b) requires designated GTECs to be certified by the applicable RTPO to be eligible for state funding. The RTPO shall evaluate the jurisdiction's GTEC certification application to determine if the proposed GTEC meets the requirements outlined in this rule. The RTPO shall, in partnership with the local jurisdiction and WSDOT, evaluate how achievement of the GTEC goal would affect the performance of the state highway system and the regional transportation system.

Within sixty days following receipt of the jurisdiction's application, the RTPO shall issue a certification report to the jurisdiction that either certifies or declines to certify the GTEC. The certification report shall state the rationale for the decision and describe in quantitative terms how the GTEC addresses state and regional highway deficiencies, and what benefits for the transportation system the GTEC is projected to provide. The RTPO shall provide a copy of the certification report and the GTEC program plan report to the CTR board.

(v) Appeal. RCW 70.94.528 (1)(b) allows jurisdictions denied certification of a designated GTEC by an RTPO to appeal the decision to the CTR board. If the RTPO declines to certify a GTEC when requested by the local jurisdiction, the local jurisdiction may appeal the decision to the CTR board within sixty days following receipt of the RTPO's certification report. The CTR board will hear the appeal within sixty days of a jurisdiction request.

If the CTR board concurs with the RTPO decision, the jurisdiction's GTEC will not be eligible for state funding. The local jurisdiction may then choose to implement the GTEC (while ineligible for state funding) or revise its application and request RTPO certification during the next biennial budget cycle. If the CTR board overrules the RTPO and certifies the GTEC, then

the jurisdiction's GTEC will be eligible for state funding if it is designated within one hundred twenty days following receipt of the notice of the state GTEC funding allocation.

(vi) Adoption. The jurisdiction shall "designate" the GTEC by adopting the GTEC program plan via official resolution or ordinance within one hundred twenty days following receipt of the notice of the state GTEC funding allocation. If the jurisdiction does not designate the GTEC program plan within this deadline, then it will not be eligible for any state or regional funding intended for GTEC programs for the current biennium.

(vii) Funding. State funding for GTECs shall be allocated by the CTR board, based on the board's funding policy developed pursuant to RCW 70.94.544.

(2) GTEC program plan.

(a) **Program development process.** RCW 70.94.528 (1)(a) requires the GTEC program plan to be developed in consultation with local transit agencies, the applicable RTPO, major employers, and other interested parties.

(i) Collaboration. The local jurisdiction shall invite, as appropriate, representatives of major employers, property managers, local transit agencies, the applicable RTPO, business associations and economic development organizations, nonprofit transportation and land use advocacy organizations, pedestrian and bicycle advocacy organizations, public health agencies, tribal governments, and residents, employees and businesses that will be affected by the GTEC to participate in the development of the GTEC program plan. The local jurisdiction and its invitees shall discuss the findings of the gap analysis portion of the plan and collaboratively develop the program's goals, targets, and program strategies.

(ii) Informal review. The local jurisdiction shall give collaborating entities and those entities affected by the GTEC designation an opportunity to review the draft program plan before it is released to the public and submitted for certification to the RTPO.

(iii) Public outreach. The local jurisdiction shall follow, at a minimum, a comparable process to the local requirements and procedures established for purposes of public outreach for comprehensive plan development, adoption, or amendment, including public notices and public meetings and hearings.

(b) **Required elements.** RCW 70.94.528 (1)(c) requires the TDM program elements in the GTEC to be consistent with the rules established by WSDOT.

The state intends for GTECs to be developed in a collaborative planning process that builds upon the information in local and regional CTR plans as well as other existing plans and programs, such as the local comprehensive plan, unified development codes, the transportation improvement program, and economic development plans. The state intends for the GTEC program plan to be a focused planning element that is coordinated with the local and regional CTR plan.

The GTEC program plan shall describe local conditions and use projections of future growth to define the scope of the problem that the GTEC goals and strategies are designed to address.

The GTEC program plan shall contain the following elements:

(i) Executive summary. The GTEC program plan shall include an executive summary of the jurisdiction's vision for the GTEC, how the GTEC relates to the base CTR program, how the plan's success will affect transportation access to and within the center, and states:

(A) The GTEC program goals and targets;

(B) The GTEC target population;

(C) Proposed program strategies, including policy and service changes needed to execute the plan and proposed land use strategies to support the plan; and

(D) Key funding and service partnerships.

(ii) Background information. The GTEC program plan shall include:

(A) A description of the geographic boundaries of the GTEC;

(B) Documentation that the GTEC is located within the jurisdiction's urban growth area; and

(C) A brief description of the jurisdiction's vision for the GTEC, including information from the local comprehensive plan, other transportation plans and programs, and funded transportation improvements.

(iii) Evaluation of land use and transportation context. Jurisdictions shall evaluate the significance of local conditions, characteristics and trends to determine which factors are most critical to the success of the plan. The RTPO, local transit agencies, state agencies and other appropriate entities shall assist this process by providing data and plans and discussing issues with jurisdictions.

The local jurisdiction shall evaluate existing conditions and characteristics and projected future conditions and characteristics. The jurisdiction may choose to evaluate, but is not limited to, the following issues:

(A) Existing conditions and characteristics. These may include, but are not limited to:

(I) Existing land uses, including the general location and extent of housing, commerce, industry, recreation, open spaces, public utilities, public facilities, and other land uses, and population densities and building intensities, with particular attention to mix of land uses and proximity of residential and employment locations.

(II) Existing transportation network, including:

- Major origins and destinations of trips, including traffic impacts of activity to, from and within a GTEC to state-owned transportation facilities, if adequate information is available from WSDOT to support this evaluation;

- Transit service network and level of service including unused capacity and facilities, service deficiencies and needs, if adequate information is available from transit agencies to support this evaluation;

- Available capacity and performance of other HOV systems serving the GTEC, if adequate information is available from transit agencies and WSDOT to support this evaluation;

- Public and private parking capacity, pricing, and development standards (minimums, maximums, and incentives to reduce parking);

- Significance of the use of and deficiencies in the street, sidewalk, and trail/bicycle path network for bicyclists and pedestrians and deficiencies in end of trip facilities (e.g., bike parking, storage and shower/locker facilities) necessary to support bicyclists and pedestrians;

- Estimated commute mode share in the GTEC for transit, rideshare, bike and walk for all employees;

- Number and size of CTR-affected employers and commute mode share by CTR employees;

and

- Local and regional transportation demand management strategies available to businesses in the GTEC, including incentives and programs that promote nondrive-alone travel.

(III) Local and regional economic development plans.

(B) Projected future conditions and characteristics. Jurisdictions shall use existing data, plans and programs to describe anticipated changes in the future. Jurisdictions shall use projections of future growth to evaluate how it will affect transportation access and economic development in the GTEC. Factors may include, but are not limited to:

(I) Projected population and employment growth for at least ten and twenty years;

- (II) Projected changes in land use types and intensities for at least ten and twenty years;
- (III) Forecasts of traffic, delay, mode share, and parking needs for at least ten years to provide information on the location, timing, and capacity needs of future growth, as well as to describe the costs to accommodate growth under the status quo (for example, describing the projected parking costs, delay, and other costs that will be incurred from future growth); and
- (IV) Identification of jurisdiction plans, policies and capital programs for the provision of infrastructure, services and amenities to support planned growth and reduce single-occupant-vehicle trips, including additional transit routes, HOV capacity, pricing strategies and nonmotorized facilities and amenities.

(iv) Gap analysis. Using the information gathered in discussion of the existing and projected future conditions and characteristics, the local jurisdiction and its partners shall evaluate the degree to which existing and future services, policies, and programs will be sufficient to maintain or improve transportation access and increase the proportion of nondrive-alone travel as the area grows. This evaluation shall describe the gaps between what services, policies and programs will be available versus what may be needed to address the projected conditions. The jurisdiction's evaluation of its own policies, programs, and regulations shall include, but is not limited to an evaluation of land use and transportation regulations, including parking policies and ordinances, streetscape design standards, development requirements, concurrency policies, level of service standards, assessment of impact fees, and zoning, to determine the extent that they can reduce the need for drive-alone travel and attract and maintain a mix of complementary land uses, particularly uses that generate pedestrian activity and transit ridership.

(v) Description of program goals and measurements. The state's goal for the GTEC program is to provide greater access to employment and residential centers while increasing the proportion of people not driving alone during peak periods on the state highway system. The GTEC program plan's established goals and targets shall be more aggressive than the minimum goal for the urban growth area established by the jurisdiction, in accordance with RCW 70.94.528(1). The GTEC's established goals and targets shall be designed to maintain or improve transportation access and increase the proportion of nondrive-alone travel as the area grows. The goals and targets shall be designed to support achievement of local and regional goals for transportation and land use.

(A) Goals and targets. Jurisdictions shall have flexibility in establishing GTEC goals and targets, as long as the targets are certified by the RTPO to be more aggressive than the minimum drive alone and VMT targets for the CTR program established by the state. The RTPO shall certify that the GTEC program targets meet this standard if the GTEC program target is to reduce, on a relative or absolute basis, more drive-alone trips or more vehicle miles traveled than the minimum base CTR program target in the urban growth area.

The GTEC targets shall be expressed in terms of changes from a base year value.

The RTPO shall determine in the GTEC certification report if the GTEC program target meets the standard defined in RCW 70.94.528(1), and work with WSDOT to evaluate how attainment of the target will affect the performance of the state highway system.

(B) Performance measures. The GTEC program plan shall describe the methodology for measuring the program's performance. The program's performance shall be measured at least once every two years after the base year measurement in order to assess progress toward the established GTEC goals and targets. The program's measurement methodology shall be consistent with the GTEC guidelines established by WSDOT and listed on the agency's web site.

(vi) Description of program strategies. Using the gap analysis evaluation, the local jurisdiction and its partners shall identify what new or revised services, policies and programs may be needed in order to meet the GTEC's established goals and targets.

The local jurisdiction shall consult with appropriate representatives of local transit agencies, the applicable RTPO, business associations and economic development organizations, nonprofit transportation and land use advocacy organizations, public health agencies, and residents, employees and businesses that will be affected by the GTEC so that they may provide their perception of what services, policies and programs are needed to meet the GTEC's established goals and targets. The state's intent is for the discussion to be an open, collaborative process, and for all of the parties to think about how they may be able to improve their own services, policies and programs, or develop stronger partnerships, in order to support the GTEC's established goals and targets.

The GTEC program plan shall identify the target population that will be the focus of the plan, as well as the services, policies and programs that will be needed in order to meet the GTEC's established goals and targets. These may include new services, policies and programs or improvements to existing services, policies and programs. The state recognizes that program strategies will vary across the state, depending on local conditions, needs, partnerships, and resources.

The GTEC program plan may include but is not limited to the following strategies:

- (A) Improvements to policies and regulations;
- (B) New services and facilities; and
- (C) New marketing and incentive programs.

(vii) Financial plan. The GTEC program plan shall include a sustainable financial plan that demonstrates how the jurisdiction plans to implement the GTEC program to meet its goals and targets. The plan shall describe resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommend any innovating financing techniques consistent with chapter 47.29 RCW, including public/private partnerships, to finance needed facilities, services, and programs. The plan shall specifically describe when and how the expected funding resources will fund the plan's strategies. The plan shall describe how locally derived funding resources will be leveraged as a match to state GTEC program funds allocated through the CTR board according to its funding policy. The plan shall describe the jurisdiction's contingency plan if anticipated funds do not become available to support the plan. Jurisdictions may consider using other state TDM funding resources, including the trip reduction performance program, the vanpool investment program, the rideshare tax credit, and the regional mobility grant program, in funding their GTEC programs.

(viii) Proposed organizational structure for implementing the program. The GTEC program plan shall identify the organization or organizations that are proposed to administer the GTEC program. The plan shall describe the roles of the local jurisdiction's partners by describing who will implement the various strategies identified in the plan and when the elements of the plan are expected to be implemented. If the jurisdiction will update its comprehensive plan to be consistent with the GTEC program plan, it shall describe which elements need updating and when the update will occur.

(ix) Documentation of public outreach. The GTEC program plan shall document the level and frequency of outreach and consultation with local transit agencies, the applicable RTPO, major employers, and other affected parties in the development of the GTEC program plan. The jurisdiction may choose to include letters of support from business associations, developers,

employers and others as documentation of consultation. When submitting the plan to the RTPO for certification, the local jurisdiction shall include letters of support from those partners that are expected to contribute resources to the plan or intend to work with the local jurisdiction to develop future strategies and funding resources for the GTEC.

(x) Description of relationship to local CTR plan. Jurisdictions shall describe the relationship of the GTEC program plan to the base CTR program in the local CTR plan. The narrative shall include information about what the GTEC plan adds beyond the requirements and strategies in the base CTR program, and the expected benefits of the GTEC plan for the base CTR program.

(3) Support for GTECs.

(a) **Prioritization.** RCW 70.94.528 requires transit agencies, local governments, and RTPOs to identify certified GTECs as priority areas for new service and facility investments in their respective investment plans. Transit agencies, local governments, regional transportation planning organizations, and the state shall identify certified growth and transportation efficiency centers as priority areas for new service and facility investments in future updates of their investment plans, as required by RCW 70.94.528(1). Periodically, the CTR board shall evaluate the degree to which prioritization of GTECs has occurred.

(i) Transit development plan. The local transit agency shall examine and revise funding prioritization policies, recognizing funding constraints and competing priorities, in order to meet the state's intent to prioritize certified GTECs for investments in facilities, services, and amenities in its transit development plan.

(ii) City and county six-year comprehensive transportation programs. The city or county shall examine and revise funding prioritization policies, recognizing funding constraints and competing priorities, in order to meet the state's intent to prioritize certified GTECs for investments in facilities, services, and amenities in its comprehensive transportation program.

(iii) Regional transportation plan. The RTPO shall examine and revise funding prioritization policies, recognizing funding constraints and competing priorities, in order to meet the state's intent to prioritize certified GTECs for investments in facilities, services, and amenities in its regional transportation plan.

(iv) State plans. WSDOT, the department of community, trade, and economic development, the transportation improvement board and the public works trust fund shall examine funding prioritization policies, recognizing funding constraints and competing priorities, in order to meet the state's intent to prioritize certified GTECs for investments in facilities and services as part of state plans and programs.

(b) **Integration.** The GTEC program plan shall be incorporated into other plans and programs, including local comprehensive plans and transportation improvement programs, as they are updated after January 1, 2008.

[Statutory Authority: RCW 70.94.537. WSR 07-05-065, § 468-63-060, filed 2/20/07, effective 3/23/07.]

468-63-070 - Opt-in, additions, and exemptions.

(1) **Criteria and process for opt-in.** RCW 70.94.537 (2)(h) requires WSDOT to establish criteria and a process to determine whether jurisdictions that voluntarily implement CTR are eligible for state funding. Jurisdictions that are not required to implement CTR may volunteer to participate in the program. The state CTR board is not required to provide state CTR program funding to jurisdictions that opt-in. WSDOT shall provide technical assistance to opt-in jurisdictions that meet the requirements of these rules. The state intends for each jurisdiction

participating in CTR to implement a consistent set of requirements for employers. Therefore, jurisdictions that opt-in to the CTR program shall follow the requirements of the rules, with the following exceptions listed below.

(a) **Local CTR plan.** Voluntary jurisdictions may, instead of developing a stand-alone CTR plan meeting the planning requirements described in these rules, develop an amendment to the transportation element of the local comprehensive plan. The amendment shall contain the following:

(i) Goals and numerical targets for reductions in the proportion of single-occupant vehicle commute trips and vehicle miles traveled per CTR commuter for the area established by the jurisdiction;

(ii) An assessment of current conditions and how attainment of the program goal can help the jurisdiction meet its broader growth and transportation goals;

(iii) A description of local services that will help the jurisdiction and its employers meet the goals and targets;

(iv) A description of the requirements for employers;

(v) A determination of the base year value and how progress toward meeting the program goal will be measured, consistent with the measurement guidelines issued by WSDOT; and

(vi) A description of how the program will be funded and administered.

The jurisdiction must adopt the comprehensive plan amendment and adopt an ordinance implementing the CTR requirements described in the comprehensive plan to be considered an opt-in CTR jurisdiction.

(b) **State technical assistance.** After an opt-in jurisdiction provides confirmation to the CTR board that a CTR ordinance has been adopted and the jurisdiction has updated its comprehensive plan to include CTR plan information, the jurisdiction shall be eligible to receive a comparable level of technical assistance that WSDOT provides to other jurisdictions required to adopt and implement CTR plans.

(2) **Criteria and procedure for RTPOs to propose to add urban growth areas.** RCW [70.94.537](#) (2)(f) requires WSDOT to establish criteria and procedures for RTPOs in consultation with local jurisdictions to propose to add urban growth areas. In their regional CTR plans, RTPOs may propose to add urban growth areas to the CTR program. The proposal shall list the jurisdictions in the urban growth area proposed to be added, and shall include documentation of the jurisdiction's consent to be added to the CTR program. If the proposed additions are accepted by the CTR board, the identified, consenting jurisdictions in the added urban growth areas shall be considered as opt-in jurisdictions. The opt-in jurisdictions shall be eligible to receive a comparable level of technical assistance that WSDOT provides to other jurisdictions required to adopt and implement CTR plans. The state CTR board is not required to provide state CTR program funding to jurisdictions that opt-in.

The CTR board shall consider proposed additions to the CTR program as part of its review of the regional CTR plan. In order for a jurisdiction to be approved as an opt-in jurisdiction through the regional CTR plan, the regional CTR plan shall include the following elements for each opt-in jurisdiction:

(a) Goals and numerical targets for reductions in the proportion of single-occupant vehicle commute trips and vehicle miles traveled per CTR commuter established by the proposed jurisdiction for the urban growth area and its employers;

(b) An assessment of current conditions and how attainment of the program goal can help the proposed jurisdiction meet its broader growth and transportation goals;

(c) A description of local services that will help the proposed jurisdiction and its employers meet the goals and targets;

(d) A description of the requirements for employers;

(e) A determination of the base year value and how progress toward meeting the program goal will be measured, consistent with the measurement guidelines issued by WSDOT; and

(f) A description of how the program will be funded and administered.

(3) Criteria and procedure for RTPOs to propose to exempt urban growth areas. RCW 70.94.537 (2)(f) requires WSDOT to establish criteria and procedures for RTPOs in consultation with local jurisdictions to propose to exempt urban growth areas.

(a) Exemption criteria. In order for their urban growth area to be exempted, jurisdictions must document in the submittal of their local CTR plan that they meet the following criteria:

(i) Development of a local CTR plan that meets the requirements in these rules;

(ii) The jurisdiction is not currently experiencing any problems with traffic congestion or traffic safety; and

(iii) The jurisdiction has not received any state transportation funding, including grant funding, for transportation improvements in the urban growth area within two years of the submittal of the local CTR plan;

(b) **Exemption application process.** A jurisdiction that seeks an urban growth area exemption shall notify its RTPO as part of the submittal of its local CTR plan. If the RTPO concurs with the urban growth area exemption request, the RTPO will submit the urban growth area exemption request with the regional CTR plan to the CTR board. The urban growth area exemption request shall describe why the exemption is justified.

RTPOs shall submit any urban growth area exemption requests to the CTR board by October 1, 2007, or by March 31 every two years thereafter. The CTR board may consider urban growth area exemption requests at other times.

The CTR board shall consider the proposed urban growth area exemption while reviewing the regional CTR plan, and approve or deny the urban growth area exemption. The CTR board shall state the reasoning for its decision and communicate the information in writing to the RTPO.

If the CTR board grants the urban growth area exemption, the jurisdiction is exempt from the requirements of the CTR law until the regional CTR plan is updated and the exemption is reevaluated.

If the CTR board denies the urban growth area exemption, the jurisdiction may appeal the decision to the secretary of transportation or his/her designee within sixty days of the board's decision by submitting a written request for appeal to the secretary of transportation or his/her designee. The secretary of transportation or his/her designee shall consider the appeal within sixty days of the jurisdiction's request. If the secretary of transportation or his/her designee grants the appeal, the exemption shall be granted by the CTR board. If the secretary of transportation or his/her designee denies the appeal, the jurisdiction is required to follow the CTR requirements and the regional CTR plan must reflect the inclusion of the jurisdiction's CTR plan.

(c) **Reevaluation of exemption.** As part of the regional CTR plan update, RTPOs, in consultation with local jurisdictions, shall reevaluate any exempted urban growth areas to assess whether the conditions that qualified the area for the exemption have changed. For each proposed urban growth area, the RTPO shall discuss its reasoning for a continued exemption or removal of exemption with the CTR board, and the CTR board will decide whether or not a change is warranted.

[Statutory Authority: RCW 70.94.537. WSR 07-05-065, § 468-63-070, filed 2/20/07, effective 3/23/07.]

Appendix HHH

Spokane County Washington's Code of Ordinances

Title 46 Motor Vehicles

Chapter 46.80 Commute Trip Reduction

46.80.030 - CTR goals.

- A. Commute Trip Reduction Goals. The county's goals for reductions in the proportions of drive-alone commute trips and vehicle miles traveled per employee by affected employers in the county's jurisdiction, major employment installations, and other areas designated by the county are hereby established by the county's CTR plan incorporated by Section 46.80.020. These goals establish the desired level of performance for the CTR program in its entirety in the county.

The county will set the individual worksite goals for affected employers based on how the worksite can contribute to the county's overall goal established in the CTR plan. The goals will appear as a component of the affected employer's approved implementation plan outlined in Section 46.80.060.

- B. Commute Trip Reduction Goals for Employers.

- (1) The drive-alone and VMT goals for affected employers in the county are hereby established as set forth in the CTR plan incorporated by Section 46.80.020
- (2) If the goals for an affected employer or newly affected employer are not listed in the CTR plan, they shall be established by the county at a level designed to achieve the county's overall goals for the jurisdiction and other areas as designated by the county. The county shall provide written notification of the goals for each affected employer worksite by providing the information when the county reviews the employer's proposed program and incorporating the goals into the program approval issued by the county.

(Ord. No. 9-0448, § 3, 5-12-2009)

46.80.040 - Responsible county agency(ies).

The county commute trip reduction office, a section within the department of public works, division of engineering and roads, is responsible for implementing this chapter and the CTR plan. This responsibility may be exercised directly by county administrative staff or by contracting with another agency. The county engineer is designated as the responsible official.

(Ord. No. 9-0448, § 4, 5-12-2009)

46.80.050 - Applicability.

The provisions of this chapter shall apply to any affected employer at any single worksite within the geographic limits of the CTR plan adopted in Section 46.80.020 above. Employees will only be counted at their primary area worksite. It is the responsibility of the employer to notify the county of a change in status as an affected employer.

- A. Notification of Applicability.

1. In addition to the county's established public notification for adoption of an ordinance, a notice of availability of a summary of this chapter, a notice of the requirements and criteria for affected employers to comply with this chapter, and subsequent revisions shall be published at least once in the county's official newspaper not more than thirty days after passage of this chapter or revisions.
2. Affected employers located in the county are to receive written notification that they are subject to this chapter. Such notice shall be addressed to the company's chief executive officer, senior official, or CTR program manager or registered agent at the worksite. Such

notification shall provide ninety days for the affected employer to perform a baseline measurement consistent with the measurement requirements specified by the county.

3. Affected employers that, for whatever reason, do not receive notice within thirty days of passage of the ordinance from which this chapter derives and are either notified or identify themselves to the county within ninety days of the passage of the ordinance from which this chapter derives will be granted an extension to assure up to ninety days within which to perform a baseline measurement consistent with the measurement requirements specified by the county.
4. Affected employers that have not been identified or do not identify themselves within ninety days of the passage of the ordinance from which this chapter derives and do not perform a baseline measurement consistent with the measurement requirements specified by the county within ninety days from the passage of the ordinance from which this chapter derives are in violation of this chapter.
5. If an affected employer has already performed a baseline measurement, or an alternative acceptable to the county, under previous iterations of this chapters, the employer is not required to perform another baseline measurement.

B. Newly Affected Employers.

1. Employers meeting the definition of "affected employer" in this chapter must identify themselves to the county within ninety days of either moving into the boundaries outlined in the CTR plan adopted in Section 46.80.020 above or growing in employment at a worksite to one hundred or more affected employees. Employers who do not identify themselves within ninety calendar days are in violation of this chapter.
2. Newly affected employers identified as such shall be given ninety days to perform a baseline measurement consistent with the measurement requirements specified by the county. Employers who do not perform a baseline measurement within ninety days of receiving written notification that they are subject to this chapter are in violation of this chapter.
3. Not more than ninety days after receiving written notification of the results of the baseline measurement, the newly affected employer shall develop and submit a CTR program to the county. The program will be developed in consultation with county commute trip reduction office staff (Section 46.80.040 above) to be consistent with the goals of the CTR plan adopted in Section 46.80.020 above. The program shall be implemented not more than ninety days after approval by the county. Employers who do not implement an approved CTR program according to this schedule are in violation of this chapter and subject to the penalties outlined in Section 46.80.090.D below.

C. Change in Status as an Affected Employer. Any of the following changes in an employer's status will change the employer's CTR program requirements:

1. If an employer initially designated as an affected employer no longer employs one hundred or more affected employees and expects not to employ one hundred or more affected employees for the next twelve months, that employer is no longer an affected employer. It is the responsibility of the employer to notify and provide documentation to the county that it is no longer an affected employer. The burden of proof lies with the employer.
2. If the same employer returns to the level of one hundred or more affected employees within the same twelve-month period, that employer will be considered an affected employer for the entire twelve months and will be subject to the same program requirements as other affected employers.
3. If the same employer returns to the level of one hundred or more affected employees twelve or more months after its change in status to an "unaffected" employer, that employer shall be treated as a newly affected employer and will be subject to the same program requirements as other newly affected employers.

46.80.060 - Requirements for Employers - RCW 70.94.531.

An affected employer is required to make a good faith effort, as defined in RCW 70.94.534(2) and this chapter, to develop and implement a CTR program that will encourage its employees to reduce VMT per employee and drive alone commute trips. The CTR program must include the mandatory elements as described below.

- A. **Mandatory Program Elements.** Each employer's CTR program shall include the following mandatory elements:
 1. **Employee Transportation Coordinator (ETC).** The employer shall designate an employee transportation coordinator (ETC) to administer the CTR program. The ETC and/or designee's name, location, and telephone number must be prominently displayed physically or electronically at each affected worksite. The ETC shall oversee all elements of the employer's CTR program and act as liaison between the employer and the county. The objective is to have an effective transportation coordinator presence at each worksite; an affected employer with multiple sites may have one ETC for all sites. The transportation coordinator must complete the basic ETC training course offered by the county within six months of assuming "designated transportation coordinator" status.
 2. **Information Distribution.** Information about alternatives to drive alone commuting as well as a summary of the employer's CTR program shall be provided to employees at least once a year and to new employees at the time of hire. The summary of the employer's CTR program shall also be submitted to the county with the employer's program description and regular report.
- B. **Additional Program Elements.** In addition to the specific program elements described above, the employer's CTR program shall include additional elements as needed to meet CTR goals. Elements may include, but are not limited to, two or more of the following:
 - a. Provision of preferential parking for high-occupancy vehicles;
 - b. Reduced parking charges for high-occupancy vehicles;
 - c. Instituting or increasing parking charges for drive alone commuters;
 - d. Provision of commuter ride matching services to facilitate employee ridesharing for commute trips;
 - e. Provision of subsidies for rail, transit, or vanpool fares and/or transit passes;
 - f. Provision of vans or buses for employee ridesharing;
 - g. Provision of subsidies for carpools, walking, bicycling, teleworking, or compressed schedules;
 - h. Provision of incentives for employees that do not drive alone to work;
 - i. Permitting the use of the employer's vehicles for carpooling or vanpooling;
 - j. Permitting flexible work schedules to facilitate employees' use of transit, carpools, or vanpools;
 - k. Cooperation with transportation providers to provide additional regular or express service to the worksite;
 - l. Construction of special loading and unloading facilities for transit, carpool, and vanpool users;
 - m. Provision of bicycle parking facilities, lockers, changing areas and showers for employees who bicycle or walk to work;

- n. Provision of a program of parking incentives such as a rebate for employees who do not use the parking facilities;
 - o. Establishment of a program to permit employees to work part-time or full-time at home or at an alternative worksite closer to their homes which reduces commute trips;
 - p. Establishment of a program of alternative work schedules, such as a compressed work week, which reduces commute trips;
 - q. Implementation of other measures designed to facilitate the use of high-occupancy vehicles, such as on-site daycare facilities, emergency taxi services, or guaranteed ride home programs;
 - r. Charging employees for parking and/or the elimination of free parking; and
 - s. Other measures that the employer believes will reduce the number and length of commute trips made to the site.
- C. CTR program Report and Description. Affected employers shall review their program and submit a yearly progress report with the county in accordance with the format provided by the county.

The CTR program description outlines the strategies to be undertaken by an employer to achieve the commute trip reduction goals for the reporting period. Employers are encouraged to consider innovative strategies and combine program elements in a manner that will best suit their location, site characteristics, business type, and employees' commuting needs. Employers are further encouraged to cooperate with each other to implement program elements.

At a minimum, the employer's CTR program report and description must include: 1) a general description of the employment site location, transportation characteristics, employee parking availability, on-site amenities and surrounding services, 2) the number of employees affected by the CTR program and the total number of employees at the site; 3) documentation of compliance with the mandatory CTR program elements (as described in Subsection 46.80.060.A); 4) description of any additional elements included in the employer's CTR program (as described Subsection 46.80.060.B); and 5) a statement of organizational commitment to provide appropriate resources to the program to meet the employer's established goals.

- D. Biennial Measurement of Employee Commute Behavior. In addition to the baseline measurement, employers shall conduct a program evaluation as a means of determining worksite progress toward meeting CTR goals. As part of the program evaluation, the employer shall distribute and collect commute trip reduction program employee questionnaires (surveys) at least once every two years and strive to achieve at least a seventy percent response rate from employees at the worksite.

(Ord. No. 9-0448, § 6, 5-12-2009)

46.80.070 - Record Keeping.

Affected employers shall maintain a copy of their approved CTR program description and report, their CTR program employee questionnaire results and all supporting documentation for the descriptions and assertions made in any CTR Report to the county for a minimum of forty-eight months. The county and the employer shall agree on the record keeping requirements as part of the accepted CTR program.

(Ord. No. 9-0448, § 7, 5-12-2009)

46.80.080 - Schedule and Process for CTR program Description and Report.

- A. Document Review. The county shall provide the employer with written notification if a CTR program is deemed unacceptable. The notification must give cause for any rejection. If the employer receives no written notification of extension of the review period of its CTR program or comment on the CTR program or annual report within ninety days of submission, the employer's program or annual report

is deemed accepted. The county may extend the review period up to ninety days. The implementation date for the employer's CTR program will be extended an equivalent number of days.

- B. Schedule. Upon review of an employer's initial CTR program, the county shall establish the employer's regular reporting date. This report will be provided in a form provided by the county consistent with Section 46.80.060.C above.
- C. Modification of CTR program Elements. Any affected employer may submit a request to the county for modification of CTR requirements. Such request may be granted if one of the following conditions exist:
 - 1. The employer can demonstrate it would be unable to comply with the CTR program elements for reasons beyond the control of the employer; or
 - 2. The employer can demonstrate that compliance with the program elements would constitute an undue hardship.

The county may ask the employer to substitute a program element of similar trip reduction potential rather than grant the employer's request.

- D. Extensions. An employer may request additional time to submit a CTR program description and report, or to implement or modify a program. Such requests shall be via written notice at least thirty days before the due date for which the extension is being requested. Extensions not to exceed ninety days shall be considered for reasonable causes. The county shall grant or deny the employer's extension request by written notice within ten working days of its receipt of the extension request. If there is no response issued to the employer, an extension is automatically granted for thirty days. Extension shall not exempt an employer from any responsibility in meeting program goals. Extension granted due to delays or difficulties with any program element(s) shall not be cause for discontinuing or failing to implement other program elements. An employer's reporting date shall not be adjusted permanently as a result of these extensions. An employer's annual reporting date may be extended at the discretion of the county.
- E. Implementation of employer's CTR program. Unless extensions are granted, the employer shall implement its approved CTR program, including approved program modifications, not more than ninety days after receiving written notice from the county that the program has been approved or with the expiration of the program review period without receiving notice from the county.

(Ord. No. 9-0448, § 8, 5-12-2009)

46.80.090 - Enforcement.

- A. Compliance. For purposes of this section, compliance shall mean:
 - 1. Fully implementing in good faith all mandatory program elements as well as provisions in the approved CTR program description and report and satisfying the requirements of this chapter.
 - 2. Providing a complete CTR program description and report on the regular reporting date; and
 - 3. Distributing and collecting the CTR program employee questionnaire during the scheduled survey time period.
- B. Program Modification Criteria. The following criteria for achieving goals for VMT per employee and proportion of drive alone trips shall be applied in determining requirements for employer CTR program modifications:
 - 1. If an employer meets either or both goals, the employer has satisfied the objectives of the CTR plan and will not be required to improve its CTR program;
 - 2. If an employer makes a good faith effort, as defined in RCW 70.94.534(2) and this chapter, but has not met or is not likely to meet the applicable drive alone or VMT goal, the county may deem it necessary to make required modifications to its CTR program while working

collaboratively with the employer. After agreeing on modifications, the employer shall submit a revised CTR program description to the county for approval within thirty days of reaching agreement.

3. If an employer fails to make a good faith effort as defined in RCW 70.94.534(2) and this chapter, and fails to meet the applicable drive alone or VMT reduction goal, the county shall direct the employer to revise its program to the recommended modifications, the employer shall submit a revised CTR program description and report, including the requested modifications or equivalent measures, within thirty days of receiving written notice to revise its program. The county shall review the revisions and notify the employer of acceptance or rejection of the revised program. If a revised program is not accepted, the county will send written notice to that effect to the employer within thirty days and, if necessary, require the employer to attend a conference with program review staff for the purpose of reaching a consensus on the required program. A final decision on the required program will be issued in writing by the county within ten working days of the conference.

C. Violations. The following constitute violations if the applicable deadlines are not met:

1. Failure to self identify as an affected employer;
2. Failure to perform a baseline measurement, including:

Employers notified or that have identified themselves to the county within ninety days of the ordinance from which this chapter derives being adopted and that do not perform a baseline measurement consistent with the requirements specified by the county within ninety days from the notification or self-identification;

- a) Employers not identified or self-identified within ninety days of the ordinance from which this chapter derives being adopted and that do not perform a baseline measurement consistent with the requirements specified by the county within ninety days from the adoption of the ordinance from which this chapter derives;

3. Failure to develop and/or submit on time a complete CTR program;
4. Failure to implement an approved CTR program, unless the program elements that are carried out can be shown through quantifiable evidence to meet or exceed VMT and drive alone goals as specified in this chapter;
5. Submission of false or fraudulent data in response to survey requirements;
6. Failure to make a good faith effort, as defined in RCW 70.94.534 and this chapter(2); or
7. Failure to revise an unacceptable CTR program as defined in RCW 70.94.534(4) and this chapter.

D. Penalties. Any affected employer violating any provision of this chapter shall be guilty of a civil infraction and subject to the imposition of civil penalties.

1. Whenever the county makes a determination that the affected employer is in violation of this chapter, the county shall issue a written notice and order and send it registered mail, return receipt requested, to the chief executive officer or highest ranking official at the worksite. The notice and order shall contain:
 - a) The name and address of the affected employer.
 - b) A statement that the county has found the affected employer to be in violation of this chapter with a brief and concise description of the conditions found to be in violation.
 - c) A statement of the corrective action required to be taken. If the county has determined that corrective action is required, the order shall require that all corrective action be completed by a date stated in the notice.
 - d) A statement specifying the amount of any civil penalty assessed on account of the violation; and

- e) A statement advising that the order shall become final unless, no later than ten working days after the notice and order are served, any person aggrieved by the order requests in writing an appeal before the designated hearing examiner as well as the name and mailing address of the person with whom the appeal must be filed.
2. Each day of failure to implement the program or violating any provision of this chapter shall constitute a separate violation subject to penalties as described in RCW 7.80. The penalty for a first violation shall be one hundred dollars per working day. The penalty for subsequent violations will be two hundred fifty dollars per working day for each violation.
3. Penalties will begin to accrue fifteen working days following the official date of notice from the county. In the event an affected employer appeals the imposition of penalties, the penalties will not accrue during the appeals process. Should the designated hearing examiner decide in favor of the appellant, all or a portion of the monetary penalties may be dismissed by the designated hearing examiner.
4. No affected employer with an approved CTR program which has made a good faith effort may be held liable for failure to reach the applicable drive alone or VMT goal.
5. An affected employer shall not be liable for civil penalties if failure to implement an element of a CTR program was the result of an inability to reach agreement with a certified collective bargaining agent under applicable laws where the issue was raised by the employer and pursued in good faith. Unionized employers shall be presumed to act in good faith compliance if they:
 - a) Propose to a recognized union any provision of the employer's CTR program that is subject to bargaining as defined by the National Labor Relations Act; and
 - b) Advise the union of the existence of the statute and the mandates of the CTR program approved by the county and advise the union that the proposal being made is necessary for compliance with state law (RCW 70.94.531).

(Ord. No. 9-0448, § 9, 5-12-2009)

46.80.100 - Exemptions and Goal Modifications.

- A. **Worksite Exemptions.** An affected employer may request the county to grant an exemption from all CTR program requirements or penalties for a particular worksite. The employer must demonstrate that it would experience undue hardship in complying with the requirements of this chapter as a result of the characteristics of its business, its work force, or its location(s). An exemption may be granted if and only if the affected employer demonstrates that it faces extraordinary circumstances, such as bankruptcy or a protracted labor strike, and is unable to implement any measures that could reduce the proportion of drive alone trips and VMT per employee. Exemptions may be granted by the county at any time based on written notice of request provided by the affected employer. The notice should clearly explain the conditions for which the affected employer is seeking an exemption from the requirements of the CTR program. The county shall grant or deny the request within thirty days of receipt of the request. The county shall review annually all employers receiving exemptions, and shall determine whether the exemption will be in effect during the following program year.
- B. **Employee Exemptions.** Specific employees or groups of employees who are required to drive alone to work as a condition of employment may be exempted from a worksite's CTR program. Exemptions may also be granted for employees who work variable shifts throughout the year and who do not rotate as a group to identical shifts. The county will use the criteria identified in the CTR board administrative guidelines to assess the validity of employee exemption requests. The county shall grant or deny the request within thirty days of receipt of the request. The county shall review annually all employee exemption requests, and shall determine whether the exemption will be in effect during the following program year.
- C. **Modification of CTR Program Goals.**

1. An affected employer may request that the county modify its worksite CTR program goals. Such requests shall be filed in writing at least sixty days prior to the date the worksite is required to submit its program description or annual report. The goal modification request must clearly explain why the worksite is unable to achieve the applicable goal. The worksite must also demonstrate that it has implemented all of the elements contained in its approved CTR program.
2. The county will review and grant or deny requests for goal modifications in accordance with procedures and criteria identified in the CTR board guidelines.
3. An employer may not request a modification of the applicable goals until one year after the county's approval of its initial program description or annual report.

(Ord. No. 9-0448, § 10, 5-12-2009)

46.80.110 - Appeals.

Any affected employer may appeal administrative decisions regarding exemptions, modification of goals, CTR program elements, and violations and penalties to the designated hearing examiner. Appeals shall be filed within fifteen working days of the administrative decision. All appeals shall be filed with the clerk of the board of county commissioners of the county with offices at West 1116 Broadway Avenue, Spokane, Washington 99260. All appeals shall be in writing and must specify the decision being appealed as well as the specific basis for the appeal.

- A. Criteria on Appeals. The designated hearing examiner, upon notification of a timely appeal by the clerk of the board of county commissioners, will evaluate the appeal to determine if the decision is consistent with the CTR law and the CTR guidelines. The designated hearing examiner may schedule a meeting between the affected employer and the county. The decision of the designated hearing Examiner shall be reduced to writing. It shall be sent by certified mail, return receipt requested, to the affected employer.
- B. Appeal to the Board of County Commissioners. Any affected employer may appeal the written decision of the designated hearing examiner to the board of county commissioners. Appeals shall be filed within fifteen working days of the designated hearing examiner's written decision. All appeals shall be filed with the clerk of the board of county commissioners.

The board of county commissioners shall consider only testimony and written documentation submitted to the designated hearing examiner on any matter appealed to the board. No additional evidence shall be considered by the board of county commissioners.

Upon receipt of an appeal, the board of county commissioners will set a date no later than thirty calendar days, at which they will render their written decision on the appeal.

- C. Judicial Appeals. Any decision of the board of county commissioners, as provided for in Subsection B herein, shall be final and conclusive, unless not later than twenty calendar days from the date of the written decision, the affected employer appeals to the superior court pursuant to RCW 36.32.330.

(Ord. No. 9-0448, § 11, 5-12-2009)

Chapter 46.84 - LOCOMOTIVE HORNS

Sections:

46.84.010 - Definitions.

For the purpose of this chapter, the following definitions shall apply:

- (1) "Locomotive horn" means a train-borne audible warning device meeting standards specified by the United States Secretary of the Department of Transportation.
- (2) "Supplemental safety measure" means a safety device defined in P.L. 103-440, Section 20153(a)(3), as that law existed on November 2, 1994.

Section 20153(a)(3) defines "supplementary safety measure" as follows:

(3) the term "supplementary safety measure" refers to a safety system or procedure, provided by the appropriate traffic control authority or law enforcement authority responsible for safety at the highway-rail grade crossing, that is determined by the Secretary to be an effective substitute for the locomotive horn in the prevention of highway-rail casualties. A traffic control arrangement that prevents careless movement over the crossing (e.g., as where adequate median barriers prevent movement around crossing gates extending over the full width of the lanes in the particular direction of travel), and that conforms to standards prescribed by the Secretary under this subsection, shall be deemed to constitute a supplementary safety measure. The following do not, individually or in combination, constitute supplementary safety measures within the meaning of this subsection: standard traffic control devices or arrangements such as reflectorized crossbucks, stop signs, flashing lights, flashing lights with gates that do not completely block travel over the line of railroad, or traffic signals.

A supplemental safety measure that prevents careless movement over the crossing (e.g., as where adequate median barriers prevent movement around crossing gates extending over the full width of the lanes in a particular direction of travel), shall be deemed to conform to those standards required under P.L. 103-440 unless specifically rejected by emergency order issued by the United States Secretary of the Department of Transportation.

In addition to these definitions, the meanings ascribed to words and phrases in Chapter 81.48 RCW, as now or hereafter amended, insofar as applicable, shall have full force and effect with respect to the terms within this chapter.

(Res. 95-1300 § 1, 1995)

46.84.020 - Sounding of locomotive horns prohibited.

No railroad company or officer or agent thereof, or any other person shall sound a locomotive horn at a crossing equipped with supplemental safety measures located within the unincorporated areas of Spokane County or eighty rods from such crossing, or continue the sounding of a locomotive horn until such locomotive shall have crossed such crossing, unless such sound is necessary as a result of an imminent danger to human life or safety.

(Res. 95-1300 § 2, 1995)

Chapter 36.70A RCW

GROWTH MANAGEMENT — PLANNING BY SELECTED COUNTIES AND CITIES

RCW Sections

- 36.70A.010 Legislative findings.
- 36.70A.011 Findings -- Rural lands.
- 36.70A.020 Planning goals.
- 36.70A.030 Definitions.
- 36.70A.035 Public participation -- Notice provisions.
- 36.70A.040 Who must plan -- Summary of requirements -- Resolution for partial planning -- Development regulations must implement comprehensive plans.
- 36.70A.045 Phasing of comprehensive plan submittal.
- 36.70A.050 Guidelines to classify agriculture, forest, and mineral lands and critical areas.
- 36.70A.060 Natural resource lands and critical areas -- Development regulations.
- 36.70A.070 Comprehensive plans -- Mandatory elements.
- 36.70A.080 Comprehensive plans -- Optional elements.
- 36.70A.085 Comprehensive plans -- Port elements.
- 36.70A.090 Comprehensive plans -- Innovative techniques.
- 36.70A.100 Comprehensive plans--Must be coordinated.
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VOLUNTARY STEWARDSHIP PROGRAM

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- 36.70A.800 Role of growth strategies commission.
- 36.70A.900 Severability -- 1990 1st ex.s. c 17.
- 36.70A.901 Part, section headings not law -- 1990 1st ex.s. c 17.
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- 36.70A.903 Transfer of powers, duties, and functions.
- 36.70A.904 Conflict with federal requirements -- 2011 c 360.

Notes:

Agricultural lands -- Legislative directive of growth management act: See note following RCW 7.48.305.

Building permits--Evidence of adequate water supply required: RCW 19.27.097.

Expediting completion of projects of statewide significance -- Requirements of agreements: RCW 43.157.020.

Impact fees: RCW 82.02.050 through 82.02.100.

Population forecasts: RCW 43.62.035.

Regional transportation planning: Chapter 47.80 RCW.

Subdivision and short subdivision requirements: RCW 58.17.060, 58.17.110.

36.70A.010

Legislative findings.

The legislature finds that uncoordinated and unplanned growth, together with a lack of common goals expressing the public's interest in the conservation and the wise use of our lands, pose a threat to the environment, sustainable

economic development, and the health, safety, and high quality of life enjoyed by residents of this state. It is in the public interest that citizens, communities, local governments, and the private sector cooperate and coordinate with one another in comprehensive land use planning. Further, the legislature finds that it is in the public interest that economic development programs be shared with communities experiencing insufficient economic growth.

[1990 1st ex.s. c 17 § 1.]

36.70A.011

Findings — Rural lands.

The legislature finds that this chapter is intended to recognize the importance of rural lands and rural character to Washington's economy, its people, and its environment, while respecting regional differences. Rural lands and rural-based economies enhance the economic desirability of the state, help to preserve traditional economic activities, and contribute to the state's overall quality of life.

The legislature finds that to retain and enhance the job base in rural areas, rural counties must have flexibility to create opportunities for business development. Further, the legislature finds that rural counties must have the flexibility to retain existing businesses and allow them to expand. The legislature recognizes that not all business developments in rural counties require an urban level of services; and that many businesses in rural areas fit within the definition of rural character identified by the local planning unit.

Finally, the legislature finds that in defining its rural element under RCW 36.70A.070(5), a county should foster land use patterns and develop a local vision of rural character that will: Help preserve rural-based economies and traditional rural lifestyles; encourage the economic prosperity of rural residents; foster opportunities for small-scale, rural-based employment and self-employment; permit the operation of rural-based agricultural, commercial, recreational, and tourist businesses that are consistent with existing and planned land use patterns; be compatible with the use of the land by wildlife and for fish and wildlife habitat; foster the private stewardship of the land and preservation of open space; and enhance the rural sense of community and quality of life.

[2002 c 212 § 1.]

36.70A.020

Planning goals.

The following goals are adopted to guide the development and adoption of comprehensive plans and development regulations of those counties and cities that are required or choose to plan under RCW 36.70A.040. The following goals are not listed in order of priority and shall be used exclusively for the purpose of guiding the development of comprehensive plans and development regulations:

(1) Urban growth. Encourage development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner.

(2) Reduce sprawl. Reduce the inappropriate conversion of undeveloped land into sprawling, low-density development.

(3) Transportation. Encourage efficient multimodal transportation systems that are based on regional priorities and coordinated with county and city comprehensive plans.

(4) Housing. Encourage the availability of affordable housing to all economic segments of the population of this state, promote a variety of residential densities and housing types, and encourage preservation of existing housing stock.

(5) Economic development. Encourage economic development throughout the state that is consistent with adopted comprehensive plans, promote economic opportunity for all citizens of this state, especially for unemployed and for disadvantaged persons, promote the retention and expansion of existing businesses and recruitment of new businesses, recognize regional differences impacting economic development opportunities, and encourage growth in areas experiencing insufficient economic growth, all within the capacities of the state's natural resources, public services, and public facilities.

(6) Property rights. Private property shall not be taken for public use without just compensation having been made. The property rights of landowners shall be protected from arbitrary and discriminatory actions.

(7) Permits. Applications for both state and local government permits should be processed in a timely and fair manner to ensure predictability.

(8) Natural resource industries. Maintain and enhance natural resource-based industries, including productive timber, agricultural, and fisheries industries. Encourage the conservation of productive forest lands and productive agricultural lands, and discourage incompatible uses.

(9) Open space and recreation. Retain open space, enhance recreational opportunities, conserve fish and wildlife habitat, increase access to natural resource lands and water, and develop parks and recreation facilities.

(10) Environment. Protect the environment and enhance the state's high quality of life, including air and water quality, and the availability of water.

(11) Citizen participation and coordination. Encourage the involvement of citizens in the planning process and ensure coordination between communities and jurisdictions to reconcile conflicts.

(12) Public facilities and services. Ensure that those public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards.

(13) Historic preservation. Identify and encourage the preservation of lands, sites, and structures, that have historical or archaeological significance.

[2002 c 154 § 1; 1990 1st ex.s. c 17 § 2.]

36.70A.030

Definitions.

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Adopt a comprehensive land use plan" means to enact a new comprehensive land use plan or to update an existing comprehensive land use plan.

(2) "Agricultural land" means land primarily devoted to the commercial production of horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, Christmas trees not subject to the excise tax imposed by *RCW 84.33.100 through 84.33.140, finfish in upland hatcheries, or livestock, and that has long-term commercial significance for agricultural production.

(3) "City" means any city or town, including a code city.

(4) "Comprehensive land use plan," "comprehensive plan," or "plan" means a generalized coordinated land use policy statement of the governing body of a county or city that is adopted pursuant to this chapter.

(5) "Critical areas" include the following areas and ecosystems: (a) Wetlands; (b) areas with a critical recharging effect on aquifers used for potable water; (c) fish and wildlife habitat conservation areas; (d) frequently flooded areas; and (e) geologically hazardous areas. "Fish and wildlife habitat conservation areas" does not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of and are maintained by a port district or an irrigation district or company.

(6) "Department" means the department of commerce.

(7) "Development regulations" or "regulation" means the controls placed on development or land use activities by a county or city, including, but not limited to, zoning ordinances, critical areas ordinances, shoreline master programs, official controls, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances together with any amendments thereto. A development regulation does not include a decision to approve a project permit application, as defined in RCW 36.70B.020, even though the decision may be expressed in a resolution or ordinance of

the legislative body of the county or city.

(8) "Forest land" means land primarily devoted to growing trees for long-term commercial timber production on land that can be economically and practically managed for such production, including Christmas trees subject to the excise tax imposed under *RCW 84.33.100 through 84.33.140, and that has long-term commercial significance. In determining whether forest land is primarily devoted to growing trees for long-term commercial timber production on land that can be economically and practically managed for such production, the following factors shall be considered: (a) The proximity of the land to urban, suburban, and rural settlements; (b) surrounding parcel size and the compatibility and intensity of adjacent and nearby land uses; (c) long-term local economic conditions that affect the ability to manage for timber production; and (d) the availability of public facilities and services conducive to conversion of forest land to other uses.

(9) "Geologically hazardous areas" means areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns.

(10) "Long-term commercial significance" includes the growing capacity, productivity, and soil composition of the land for long-term commercial production, in consideration with the land's proximity to population areas, and the possibility of more intense uses of the land.

(11) "Minerals" include gravel, sand, and valuable metallic substances.

(12) "Public facilities" include streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, parks and recreational facilities, and schools.

(13) "Public services" include fire protection and suppression, law enforcement, public health, education, recreation, environmental protection, and other governmental services.

(14) "Recreational land" means land so designated under **RCW 36.70A.1701 and that, immediately prior to this designation, was designated as agricultural land of long-term commercial significance under RCW 36.70A.170. Recreational land must have playing fields and supporting facilities existing before July 1, 2004, for sports played on grass playing fields.

(15) "Rural character" refers to the patterns of land use and development established by a county in the rural element of its comprehensive plan:

- (a) In which open space, the natural landscape, and vegetation predominate over the built environment;
- (b) That foster traditional rural lifestyles, rural-based economies, and opportunities to both live and work in rural areas;
- (c) That provide visual landscapes that are traditionally found in rural areas and communities;
- (d) That are compatible with the use of the land by wildlife and for fish and wildlife habitat;
- (e) That reduce the inappropriate conversion of undeveloped land into sprawling, low-density development;
- (f) That generally do not require the extension of urban governmental services; and

(g) That are consistent with the protection of natural surface water flows and groundwater and surface water recharge and discharge areas.

(16) "Rural development" refers to development outside the urban growth area and outside agricultural, forest, and mineral resource lands designated pursuant to RCW 36.70A.170. Rural development can consist of a variety of uses and residential densities, including clustered residential development, at levels that are consistent with the preservation of rural character and the requirements of the rural element. Rural development does not refer to agriculture or forestry activities that may be conducted in rural areas.

(17) "Rural governmental services" or "rural services" include those public services and public facilities historically and typically delivered at an intensity usually found in rural areas, and may include domestic water systems, fire and police protection services, transportation and public transit services, and other public utilities associated with rural development and normally not associated with urban areas. Rural services do not include storm or sanitary sewers, except as otherwise authorized by RCW 36.70A.110(4).

(18) "Urban governmental services" or "urban services" include those public services and public facilities at an

intensity historically and typically provided in cities, specifically including storm and sanitary sewer systems, domestic water systems, street cleaning services, fire and police protection services, public transit services, and other public utilities associated with urban areas and normally not associated with rural areas.

(19) "Urban growth" refers to growth that makes intensive use of land for the location of buildings, structures, and impermeable surfaces to such a degree as to be incompatible with the primary use of land for the production of food, other agricultural products, or fiber, or the extraction of mineral resources, rural uses, rural development, and natural resource lands designated pursuant to RCW 36.70A.170. A pattern of more intensive rural development, as provided in RCW 36.70A.070(5)(d), is not urban growth. When allowed to spread over wide areas, urban growth typically requires urban governmental services. "Characterized by urban growth" refers to land having urban growth located on it, or to land located in relationship to an area with urban growth on it as to be appropriate for urban growth.

(20) "Urban growth areas" means those areas designated by a county pursuant to RCW 36.70A.110.

(21) "Wetland" or "wetlands" means areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands.

[2012 c 21 § 1. Prior: 2009 c 565 § 22; 2005 c 423 § 2; 1997 c 429 § 3; 1995 c 382 § 9; prior: 1994 c 307 § 2; 1994 c 257 § 5; 1990 1st ex.s. c 17 § 3.]

Notes:

Reviser's note: *(1) RCW 84.33.100 through 84.33.118 were repealed or decodified by 2001 c 249 §§ 15 and 16. RCW 84.33.120 was repealed by 2001 c 249 § 16 and by 2003 c 170 § 7.

** (2) RCW 36.70A.1701 expired June 30, 2006.

Intent -- 2005 c 423: "The legislature recognizes the need for playing fields and supporting facilities for sports played on grass as well as the need to preserve agricultural land of long-term commercial significance. With thoughtful and deliberate planning, and adherence to the goals and requirements of the growth management act, both needs can be met.

The legislature acknowledges the state's interest in preserving the agricultural industry and family farms, and recognizes that the state's rich and productive lands enable agricultural production. Because of its unique qualities and limited quantities, designated agricultural land of long-term commercial significance is best suited for agricultural and farm uses, not recreational uses.

The legislature acknowledges also that certain local governments have either failed or neglected to properly plan for population growth and the sufficient number of playing fields and supporting facilities needed to accommodate this growth. The legislature recognizes that citizens responded to this lack of planning, fields, and supporting facilities by constructing nonconforming fields and facilities on agricultural lands of long-term commercial significance. It is the intent of the legislature to permit the continued existence and use of these fields and facilities in very limited circumstances if specific criteria are satisfied within a limited time frame. It is also the intent of the legislature to grant this authorization without diminishing the designation and preservation requirements of the growth management act pertaining to Washington's invaluable farmland." [2005 c 423 § 1.]

Effective date -- 2005 c 423: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 12, 2005]." [2005 c 423 § 7.]

Prospective application -- 1997 c 429 §§ 1-21: See note following RCW 36.70A.3201.

Severability -- 1997 c 429: See note following RCW 36.70A.3201.

Finding -- Intent -- 1994 c 307: "The legislature finds that it is in the public interest to identify and provide long-term conservation of those productive natural resource lands that are critical to and can be managed economically and practically for long-term commercial production of food, fiber, and minerals. Successful achievement of the natural resource industries' goal set forth in RCW 36.70A.020 requires the conservation of a land base sufficient in size and

quality to maintain and enhance those industries and the development and use of land use techniques that discourage uses incompatible to the management of designated lands. The 1994 amendment to RCW 36.70A.030(8) (section 2(8), chapter 307, Laws of 1994) is intended to clarify legislative intent regarding the designation of forest lands and is not intended to require every county that has already complied with the interim forest land designation requirement of RCW 36.70A.170 to review its actions until the adoption of its comprehensive plans and development regulations as provided in RCW 36.70A.060(3)." [1994 c 307 § 1.]

Effective date -- 1994 c 257 § 5: "Section 5 of this act shall take effect July 1, 1994." [1994 c 257 § 25.]

Severability -- 1994 c 257: See note following RCW 36.70A.270.

36.70A.035

Public participation—Notice provisions.

*** CHANGE IN 2015 *** (SEE 5238.SL) ***

(1) The public participation requirements of this chapter shall include notice procedures that are reasonably calculated to provide notice to property owners and other affected and interested individuals, tribes, government agencies, businesses, school districts, and organizations of proposed amendments to comprehensive plans and development regulation. Examples of reasonable notice provisions include:

- (a) Posting the property for site-specific proposals;
- (b) Publishing notice in a newspaper of general circulation in the county, city, or general area where the proposal is located or that will be affected by the proposal;
- (c) Notifying public or private groups with known interest in a certain proposal or in the type of proposal being considered;
- (d) Placing notices in appropriate regional, neighborhood, ethnic, or trade journals; and
- (e) Publishing notice in agency newsletters or sending notice to agency mailing lists, including general lists or lists for specific proposals or subject areas.

(2)(a) Except as otherwise provided in (b) of this subsection, if the legislative body for a county or city chooses to consider a change to an amendment to a comprehensive plan or development regulation, and the change is proposed after the opportunity for review and comment has passed under the county's or city's procedures, an opportunity for review and comment on the proposed change shall be provided before the local legislative body votes on the proposed change.

(b) An additional opportunity for public review and comment is not required under (a) of this subsection if:

- (i) An environmental impact statement has been prepared under chapter 43.21C RCW for the pending resolution or ordinance and the proposed change is within the range of alternatives considered in the environmental impact statement;
- (ii) The proposed change is within the scope of the alternatives available for public comment;
- (iii) The proposed change only corrects typographical errors, corrects cross-references, makes address or name changes, or clarifies language of a proposed ordinance or resolution without changing its effect;
- (iv) The proposed change is to a resolution or ordinance making a capital budget decision as provided in RCW 36.70A.120; or
- (v) The proposed change is to a resolution or ordinance enacting a moratorium or interim control adopted under RCW 36.70A.390.

(3) This section is prospective in effect and does not apply to a comprehensive plan, development regulation, or amendment adopted before July 27, 1997. [1999 c 315 § 708; 1997 c 429 § 9.]

[1999 c 315 § 708; 1997 c 429 § 9.]

NOTES:

Part headings and captions not law—1999 c 315: See RCW 28A.315.901.

Prospective application—1997 c 429 §§ 1-21: See note following RCW 36.70A.3201.

Severability—1997 c 429: See note following RCW 36.70A.3201.

36.70A.040

Who must plan — Summary of requirements — Resolution for partial planning — Development regulations must implement comprehensive plans.

(1) Each county that has both a population of fifty thousand or more and, until May 16, 1995, has had its population increase by more than ten percent in the previous ten years or, on or after May 16, 1995, has had its population increase by more than seventeen percent in the previous ten years, and the cities located within such county, and any other county regardless of its population that has had its population increase by more than twenty percent in the previous ten years, and the cities located within such county, shall conform with all of the requirements of this chapter. However, the county legislative authority of such a county with a population of less than fifty thousand population may adopt a resolution removing the county, and the cities located within the county, from the requirements of adopting comprehensive land use plans and development regulations under this chapter if this resolution is adopted and filed with the department by December 31, 1990, for counties initially meeting this set of criteria, or within sixty days of the date the office of financial management certifies that a county meets this set of criteria under subsection (5) of this section. For the purposes of this subsection, a county not currently planning under this chapter is not required to include in its population count those persons confined in a correctional facility under the jurisdiction of the department of corrections that is located in the county.

Once a county meets either of these sets of criteria, the requirement to conform with all of the requirements of this chapter remains in effect, even if the county no longer meets one of these sets of criteria.

(2)(a) The county legislative authority of any county that does not meet either of the sets of criteria established under subsection (1) of this section may adopt a resolution indicating its intention to have subsection (1) of this section apply to the county. Each city, located in a county that chooses to plan under this subsection, shall conform with all of the requirements of this chapter. Once such a resolution has been adopted, the county and the cities located within the county remain subject to all of the requirements of this chapter, unless the county subsequently adopts a withdrawal resolution for partial planning pursuant to (b)(i) of this subsection.

(b)(i) Until December 31, 2015, the legislative authority of a county may adopt a resolution removing the county and the cities located within the county from the requirements to plan under this section if:

(A) The county has a population, as estimated by the office of financial management, of twenty thousand or fewer inhabitants at any time between April 1, 2010, and April 1, 2015;

(B) The county has previously adopted a resolution indicating its intention to have subsection (1) of this section apply to the county;

(C) At least sixty days prior to adopting a resolution for partial planning, the county provides written notification to the legislative body of each city within the county of its intent to consider adopting the resolution; and

(D) The legislative bodies of at least sixty percent of those cities having an aggregate population of at least seventy-five percent of the incorporated county population have not: Adopted resolutions opposing the action by the county; and provided written notification of the resolutions to the county.

(ii) Upon adoption of a resolution for partial planning under (b)(i) of this subsection:

(A) The county and the cities within the county are, except as provided otherwise, no longer obligated to plan under this section; and

(B) The county may not, for a minimum of ten years from the date of adoption of the resolution, adopt another resolution indicating its intention to have subsection (1) of this section apply to the county.

(c) The adoption of a resolution for partial planning under (b)(i) of this subsection does not nullify or otherwise modify the requirements for counties and cities established in RCW 36.70A.060, 36.70A.070(5) and associated development regulations, 36.70A.170, and 36.70A.172.

(3) Any county or city that is initially required to conform with all of the requirements of this chapter under subsection (1) of this section shall take actions under this chapter as follows: (a) The county legislative authority shall adopt a countywide planning policy under RCW 36.70A.210; (b) the county and each city located within the county shall designate critical areas, agricultural lands, forest lands, and mineral resource lands, and adopt development regulations conserving these designated agricultural lands, forest lands, and mineral resource lands and protecting these designated critical areas, under RCW 36.70A.170 and 36.70A.060; (c) the county shall designate and take other actions related to urban growth areas under RCW 36.70A.110; [and] (d) if the county has a population of fifty thousand or more, the county and each city located within the county shall adopt a comprehensive plan under this chapter and development regulations that are consistent with and implement the comprehensive plan on or before July 1, 1994, and if the county has a population of less than fifty thousand, the county and each city located within the county shall adopt a comprehensive plan under this chapter and development regulations that are consistent with and implement the comprehensive plan by January 1, 1995,

but if the governor makes written findings that a county with a population of less than fifty thousand or a city located within such a county is not making reasonable progress toward adopting a comprehensive plan and development regulations the governor may reduce this deadline for such actions to be taken by no more than one hundred eighty days. Any county or city subject to this subsection may obtain an additional six months before it is required to have adopted its development regulations by submitting a letter notifying the department of its need prior to the deadline for adopting both a comprehensive plan and development regulations.

(4) Any county or city that is required to conform with all the requirements of this chapter, as a result of the county legislative authority adopting its resolution of intention under subsection (2) of this section, shall take actions under this chapter as follows: (a) The county legislative authority shall adopt a county-wide planning policy under RCW 36.70A.210; (b) the county and each city that is located within the county shall adopt development regulations conserving agricultural lands, forest lands, and mineral resource lands it designated under RCW 36.70A.060 within one year of the date the county legislative authority adopts its resolution of intention; (c) the county shall designate and take other actions related to urban growth areas under RCW 36.70A.110; and (d) the county and each city that is located within the county shall adopt a comprehensive plan and development regulations that are consistent with and implement the comprehensive plan not later than four years from the date the county legislative authority adopts its resolution of intention, but a county or city may obtain an additional six months before it is required to have adopted its development regulations by submitting a letter notifying the department of its need prior to the deadline for adopting both a comprehensive plan and development regulations.

(5) If the office of financial management certifies that the population of a county that previously had not been required to plan under subsection (1) or (2) of this section has changed sufficiently to meet either of the sets of criteria specified under subsection (1) of this section, and where applicable, the county legislative authority has not adopted a resolution removing the county from these requirements as provided in subsection (1) of this section, the county and each city within such county shall take actions under this chapter as follows: (a) The county legislative authority shall adopt a countywide planning policy under RCW 36.70A.210; (b) the county and each city located within the county shall adopt development regulations under RCW 36.70A.060 conserving agricultural lands, forest lands, and mineral resource lands it designated within one year of the certification by the office of financial management; (c) the county shall designate and take other actions related to urban growth areas under RCW 36.70A.110; and (d) the county and each city located within the county shall adopt a comprehensive land use plan and development regulations that are consistent with and implement the comprehensive plan within four years of the certification by the office of financial management, but a county or city may obtain an additional six months before it is required to have adopted its development regulations by submitting a letter notifying the department of its need prior to the deadline for adopting both a comprehensive plan and development regulations.

(6) A copy of each document that is required under this section shall be submitted to the department at the time of its adoption.

(7) Cities and counties planning under this chapter must amend the transportation element of the comprehensive plan to be in compliance with this chapter and chapter 47.80 RCW no later than December 31, 2000.

[2014 c 147 § 1; 2000 c 36 § 1; 1998 c 171 § 1; 1995 c 400 § 1; 1993 sp.s. c 6 § 1; 1990 1st ex.s. c 17 § 4.]

Notes:

Effective date -- 1995 c 400: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 16, 1995]." [1995 c 400 § 6.]

Effective date -- 1993 sp.s. c 6: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect June 1, 1993." [1993 sp.s. c 6 § 7.]

36.70A.045

Phasing of comprehensive plan submittal.

The department may adopt a schedule to permit phasing of comprehensive plan submittal for counties and cities planning under RCW 36.70A.040. This schedule shall not permit a comprehensive plan to be submitted greater than one hundred eighty days past the date that the plan was required to be submitted and shall be used to facilitate expeditious review and interjurisdictional coordination of comprehensive plans and development regulations.

[1991 sp.s. c 32 § 15.]

36.70A.050

Guidelines to classify agriculture, forest, and mineral lands and critical areas.

(1) Subject to the definitions provided in RCW 36.70A.030, the department shall adopt guidelines, under chapter 34.05 RCW, no later than September 1, 1990, to guide the classification of: (a) Agricultural lands; (b) forest lands; (c) mineral resource lands; and (d) critical areas. The department shall consult with the department of agriculture regarding guidelines for agricultural lands, the department of natural resources regarding forest lands and mineral resource lands, and the department of ecology regarding critical areas.

(2) In carrying out its duties under this section, the department shall consult with interested parties, including but not limited to: (a) Representatives of cities; (b) representatives of counties; (c) representatives of developers; (d) representatives of builders; (e) representatives of owners of agricultural lands, forest lands, and mining lands; (f) representatives of local economic development officials; (g) representatives of environmental organizations; (h) representatives of special districts; (i) representatives of the governor's office and federal and state agencies; and (j) representatives of Indian tribes. In addition to the consultation required under this subsection, the department shall conduct public hearings in the various regions of the state. The department shall consider the public input obtained at such public hearings when adopting the guidelines.

(3) The guidelines under subsection (1) of this section shall be minimum guidelines that apply to all jurisdictions, but also shall allow for regional differences that exist in Washington state. The intent of these guidelines is to assist counties and cities in designating the classification of agricultural lands, forest lands, mineral resource lands, and critical areas under RCW 36.70A.170.

(4) The guidelines established by the department under this section regarding classification of forest lands shall not be inconsistent with guidelines adopted by the department of natural resources.

[1990 1st ex.s. c 17 § 5.]

36.70A.060

Natural resource lands and critical areas — Development regulations.

(1)(a) Each county that is required or chooses to plan under RCW 36.70A.040, and each city within such county, shall adopt development regulations on or before September 1, 1991, to assure the conservation of agricultural, forest, and mineral resource lands designated under RCW 36.70A.170. Regulations adopted under this subsection may not prohibit uses legally existing on any parcel prior to their adoption and shall remain in effect until the county or city adopts development regulations pursuant to RCW 36.70A.040. Such regulations shall assure that the use of lands adjacent to agricultural, forest, or mineral resource lands shall not interfere with the continued use, in the accustomed manner and in accordance with best management practices, of these designated lands for the production of food, agricultural products, or timber, or for the extraction of minerals.

(b) Counties and cities shall require that all plats, short plats, development permits, and building permits issued for development activities on, or within five hundred feet of, lands designated as agricultural lands, forest lands, or mineral resource lands, contain a notice that the subject property is within or near designated agricultural lands, forest lands, or mineral resource lands on which a variety of commercial activities may occur that are not compatible with residential development for certain periods of limited duration. The notice for mineral resource lands shall also inform that an application might be made for mining-related activities, including mining, extraction, washing, crushing, stockpiling, blasting, transporting, and recycling of minerals.

(c) Each county that adopts a resolution of partial planning under RCW 36.70A.040(2)(b), and each city within such county, shall adopt development regulations within one year after the adoption of the resolution of partial planning to assure the conservation of agricultural, forest, and mineral resource lands designated under RCW 36.70A.170. Regulations adopted under this subsection (1)(c) must comply with the requirements governing regulations adopted under (a) of this subsection.

(d)(i) A county that adopts a resolution of partial planning under RCW 36.70A.040(2)(b) and that is not in compliance

with the planning requirements of this section, RCW 36.70A.040(4), 36.70A.070 (5), 36.70A.170, and 36.70A.172 at the time the resolution is adopted must, by January 30, 2017, apply for a determination of compliance from the department finding that the county's development regulations, including development regulations adopted to protect critical areas, and comprehensive plans are in compliance with the requirements of this section, RCW 36.70A.040(4), 36.70A.070(5), 36.70A.170, and 36.70A.172. The department must approve or deny the application for a determination of compliance within one hundred twenty days of its receipt or by June 30, 2017, whichever date is earlier.

(ii) If the department denies an application under (d)(i) of this subsection, the county and each city within is obligated to comply with all requirements of this chapter and the resolution for partial planning adopted under RCW 36.70A.040(2)(b) is no longer in effect.

(iii) A petition for review of a determination of compliance under (d)(i) of this subsection may only be appealed to the growth management hearings board within sixty days of the issuance of the decision by the department.

(iv) In the event of a filing of a petition in accordance with (d)(iii) of this subsection, the county and the department must equally share the costs incurred by the department for defending an approval of determination of compliance that is before the growth management hearings board.

(v) The department may implement this subsection [(1)](d) by adopting rules related to determinations of compliance. The rules may address, but are not limited to: The requirements for applications for a determination of compliance; charging of costs under (d)(iv) of this subsection; procedures for processing applications; criteria for the evaluation of applications; issuance and notice of department decisions; and applicable timelines.

(2) Each county and city shall adopt development regulations that protect critical areas that are required to be designated under RCW 36.70A.170. For counties and cities that are required or choose to plan under RCW 36.70A.040, such development regulations shall be adopted on or before September 1, 1991. For the remainder of the counties and cities, such development regulations shall be adopted on or before March 1, 1992.

(3) Such counties and cities shall review these designations and development regulations when adopting their comprehensive plans under RCW 36.70A.040 and implementing development regulations under RCW 36.70A.120 and may alter such designations and development regulations to insure consistency.

(4) Forest land and agricultural land located within urban growth areas shall not be designated by a county or city as forest land or agricultural land of long-term commercial significance under RCW 36.70A.170 unless the city or county has enacted a program authorizing transfer or purchase of development rights.

[2014 c 147 § 2; 2005 c 423 § 3; 1998 c 286 § 5; 1991 sp.s. c 32 § 21; 1990 1st ex.s. c 17 § 6.]

Notes:

Intent -- Effective date -- 2005 c 423: See notes following RCW 36.70A.030.

36.70A.070

Comprehensive plans — Mandatory elements.

The comprehensive plan of a county or city that is required or chooses to plan under RCW 36.70A.040 shall consist of a map or maps, and descriptive text covering objectives, principles, and standards used to develop the comprehensive plan. The plan shall be an internally consistent document and all elements shall be consistent with the future land use map. A comprehensive plan shall be adopted and amended with public participation as provided in RCW 36.70A.140.

Each comprehensive plan shall include a plan, scheme, or design for each of the following:

(1) A land use element designating the proposed general distribution and general location and extent of the uses of land, where appropriate, for agriculture, timber production, housing, commerce, industry, recreation, open spaces, general aviation airports, public utilities, public facilities, and other land uses. The land use element shall include population densities, building intensities, and estimates of future population growth. The land use element shall provide for protection of the quality and quantity of groundwater used for public water supplies. Wherever possible, the land use element should consider utilizing urban planning approaches that promote physical activity. Where applicable, the land use element shall review drainage, flooding, and storm water run-off in the area and nearby jurisdictions and provide guidance for corrective actions to mitigate or cleanse those discharges that pollute waters of the state, including Puget Sound or waters entering Puget Sound.

(2) A housing element ensuring the vitality and character of established residential neighborhoods that: (a) Includes an inventory and analysis of existing and projected housing needs that identifies the number of housing units necessary to manage projected growth; (b) includes a statement of goals, policies, objectives, and mandatory provisions for the preservation, improvement, and development of housing, including single-family residences; (c) identifies sufficient land for housing, including, but not limited to, government-assisted housing, housing for low-income families, manufactured housing, multifamily housing, and group homes and foster care facilities; and (d) makes adequate provisions for existing and projected needs of all economic segments of the community.

(3) A capital facilities plan element consisting of: (a) An inventory of existing capital facilities owned by public entities, showing the locations and capacities of the capital facilities; (b) a forecast of the future needs for such capital facilities; (c) the proposed locations and capacities of expanded or new capital facilities; (d) at least a six-year plan that will finance such capital facilities within projected funding capacities and clearly identifies sources of public money for such purposes; and (e) a requirement to reassess the land use element if probable funding falls short of meeting existing needs and to ensure that the land use element, capital facilities plan element, and financing plan within the capital facilities plan element are coordinated and consistent. Park and recreation facilities shall be included in the capital facilities plan element.

(4) A utilities element consisting of the general location, proposed location, and capacity of all existing and proposed utilities, including, but not limited to, electrical lines, telecommunication lines, and natural gas lines.

(5) Rural element. Counties shall include a rural element including lands that are not designated for urban growth, agriculture, forest, or mineral resources. The following provisions shall apply to the rural element:

(a) Growth management act goals and local circumstances. Because circumstances vary from county to county, in establishing patterns of rural densities and uses, a county may consider local circumstances, but shall develop a written record explaining how the rural element harmonizes the planning goals in RCW 36.70A.020 and meets the requirements of this chapter.

(b) Rural development. The rural element shall permit rural development, forestry, and agriculture in rural areas. The rural element shall provide for a variety of rural densities, uses, essential public facilities, and rural governmental services needed to serve the permitted densities and uses. To achieve a variety of rural densities and uses, counties may provide for clustering, density transfer, design guidelines, conservation easements, and other innovative techniques that will accommodate appropriate rural densities and uses that are not characterized by urban growth and that are consistent with rural character.

(c) Measures governing rural development. The rural element shall include measures that apply to rural development and protect the rural character of the area, as established by the county, by:

(i) Containing or otherwise controlling rural development;

(ii) Assuring visual compatibility of rural development with the surrounding rural area;

(iii) Reducing the inappropriate conversion of undeveloped land into sprawling, low-density development in the rural area;

(iv) Protecting critical areas, as provided in RCW 36.70A.060, and surface water and groundwater resources; and

(v) Protecting against conflicts with the use of agricultural, forest, and mineral resource lands designated under RCW 36.70A.170.

(d) Limited areas of more intensive rural development. Subject to the requirements of this subsection and except as otherwise specifically provided in this subsection (5)(d), the rural element may allow for limited areas of more intensive rural development, including necessary public facilities and public services to serve the limited area as follows:

(i) Rural development consisting of the infill, development, or redevelopment of existing commercial, industrial, residential, or mixed-use areas, whether characterized as shoreline development, villages, hamlets, rural activity centers, or crossroads developments.

(A) A commercial, industrial, residential, shoreline, or mixed-use area shall be subject to the requirements of (d)(iv) of this subsection, but shall not be subject to the requirements of (c)(ii) and (iii) of this subsection.

(B) Any development or redevelopment other than an industrial area or an industrial use within a mixed-use area or an

industrial area under this subsection (5)(d)(i) must be principally designed to serve the existing and projected rural population.

(C) Any development or redevelopment in terms of building size, scale, use, or intensity shall be consistent with the character of the existing areas. Development and redevelopment may include changes in use from vacant land or a previously existing use so long as the new use conforms to the requirements of this subsection (5);

(ii) The intensification of development on lots containing, or new development of, small-scale recreational or tourist uses, including commercial facilities to serve those recreational or tourist uses, that rely on a rural location and setting, but that do not include new residential development. A small-scale recreation or tourist use is not required to be principally designed to serve the existing and projected rural population. Public services and public facilities shall be limited to those necessary to serve the recreation or tourist use and shall be provided in a manner that does not permit low-density sprawl;

(iii) The intensification of development on lots containing isolated nonresidential uses or new development of isolated cottage industries and isolated small-scale businesses that are not principally designed to serve the existing and projected rural population and nonresidential uses, but do provide job opportunities for rural residents. Rural counties may allow the expansion of small-scale businesses as long as those small-scale businesses conform with the rural character of the area as defined by the local government according to RCW 36.70A.030(15). Rural counties may also allow new small-scale businesses to utilize a site previously occupied by an existing business as long as the new small-scale business conforms to the rural character of the area as defined by the local government according to RCW 36.70A.030 (15). Public services and public facilities shall be limited to those necessary to serve the isolated nonresidential use and shall be provided in a manner that does not permit low-density sprawl;

(iv) A county shall adopt measures to minimize and contain the existing areas or uses of more intensive rural development, as appropriate, authorized under this subsection. Lands included in such existing areas or uses shall not extend beyond the logical outer boundary of the existing area or use, thereby allowing a new pattern of low-density sprawl. Existing areas are those that are clearly identifiable and contained and where there is a logical boundary delineated predominately by the built environment, but that may also include undeveloped lands if limited as provided in this subsection. The county shall establish the logical outer boundary of an area of more intensive rural development. In establishing the logical outer boundary, the county shall address (A) the need to preserve the character of existing natural neighborhoods and communities, (B) physical boundaries, such as bodies of water, streets and highways, and land forms and contours, (C) the prevention of abnormally irregular boundaries, and (D) the ability to provide public facilities and public services in a manner that does not permit low-density sprawl;

(v) For purposes of (d) of this subsection, an existing area or existing use is one that was in existence:

(A) On July 1, 1990, in a county that was initially required to plan under all of the provisions of this chapter;

(B) On the date the county adopted a resolution under RCW 36.70A.040(2), in a county that is planning under all of the provisions of this chapter under RCW 36.70A.040(2); or

(C) On the date the office of financial management certifies the county's population as provided in RCW 36.70A.040 (5), in a county that is planning under all of the provisions of this chapter pursuant to RCW 36.70A.040(5).

(e) Exception. This subsection shall not be interpreted to permit in the rural area a major industrial development or a master planned resort unless otherwise specifically permitted under RCW 36.70A.360 and 36.70A.365.

(6) A transportation element that implements, and is consistent with, the land use element.

(a) The transportation element shall include the following subelements:

(i) Land use assumptions used in estimating travel;

(ii) Estimated traffic impacts to state-owned transportation facilities resulting from land use assumptions to assist the department of transportation in monitoring the performance of state facilities, to plan improvements for the facilities, and to assess the impact of land-use decisions on state-owned transportation facilities;

(iii) Facilities and services needs, including:

(A) An inventory of air, water, and ground transportation facilities and services, including transit alignments and general aviation airport facilities, to define existing capital facilities and travel levels as a basis for future planning. This inventory must include state-owned transportation facilities within the city or county's jurisdictional boundaries;

(B) Level of service standards for all locally owned arterials and transit routes to serve as a gauge to judge performance of the system. These standards should be regionally coordinated;

(C) For state-owned transportation facilities, level of service standards for highways, as prescribed in chapters 47.06 and 47.80 RCW, to gauge the performance of the system. The purposes of reflecting level of service standards for state highways in the local comprehensive plan are to monitor the performance of the system, to evaluate improvement strategies, and to facilitate coordination between the county's or city's six-year street, road, or transit program and the office of financial management's ten-year investment program. The concurrency requirements of (b) of this subsection do not apply to transportation facilities and services of statewide significance except for counties consisting of islands whose only connection to the mainland are state highways or ferry routes. In these island counties, state highways and ferry route capacity must be a factor in meeting the concurrency requirements in (b) of this subsection;

(D) Specific actions and requirements for bringing into compliance locally owned transportation facilities or services that are below an established level of service standard;

(E) Forecasts of traffic for at least ten years based on the adopted land use plan to provide information on the location, timing, and capacity needs of future growth;

(F) Identification of state and local system needs to meet current and future demands. Identified needs on state-owned transportation facilities must be consistent with the statewide multimodal transportation plan required under chapter 47.06 RCW;

(iv) Finance, including:

(A) An analysis of funding capability to judge needs against probable funding resources;

(B) A multiyear financing plan based on the needs identified in the comprehensive plan, the appropriate parts of which shall serve as the basis for the six-year street, road, or transit program required by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW 35.58.2795 for public transportation systems. The multiyear financing plan should be coordinated with the ten-year investment program developed by the office of financial management as required by RCW 47.05.030;

(C) If probable funding falls short of meeting identified needs, a discussion of how additional funding will be raised, or how land use assumptions will be reassessed to ensure that level of service standards will be met;

(v) Intergovernmental coordination efforts, including an assessment of the impacts of the transportation plan and land use assumptions on the transportation systems of adjacent jurisdictions;

(vi) Demand-management strategies;

(vii) Pedestrian and bicycle component to include collaborative efforts to identify and designate planned improvements for pedestrian and bicycle facilities and corridors that address and encourage enhanced community access and promote healthy lifestyles.

(b) After adoption of the comprehensive plan by jurisdictions required to plan or who choose to plan under RCW 36.70A.040, local jurisdictions must adopt and enforce ordinances which prohibit development approval if the development causes the level of service on a locally owned transportation facility to decline below the standards adopted in the transportation element of the comprehensive plan, unless transportation improvements or strategies to accommodate the impacts of development are made concurrent with the development. These strategies may include increased public transportation service, ride sharing programs, demand management, and other transportation systems management strategies. For the purposes of this subsection (6), "concurrent with the development" means that improvements or strategies are in place at the time of development, or that a financial commitment is in place to complete the improvements or strategies within six years.

(c) The transportation element described in this subsection (6), the six-year plans required by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW 35.58.2795 for public transportation systems, and the ten-year investment program required by RCW 47.05.030 for the state, must be consistent.

(7) An economic development element establishing local goals, policies, objectives, and provisions for economic growth and vitality and a high quality of life. The element shall include: (a) A summary of the local economy such as population, employment, payroll, sectors, businesses, sales, and other information as appropriate; (b) a summary of the strengths and weaknesses of the local economy defined as the commercial and industrial sectors and supporting factors

such as land use, transportation, utilities, education, workforce, housing, and natural/cultural resources; and (c) an identification of policies, programs, and projects to foster economic growth and development and to address future needs. A city that has chosen to be a residential community is exempt from the economic development element requirement of this subsection.

(8) A park and recreation element that implements, and is consistent with, the capital facilities plan element as it relates to park and recreation facilities. The element shall include: (a) Estimates of park and recreation demand for at least a ten-year period; (b) an evaluation of facilities and service needs; and (c) an evaluation of intergovernmental coordination opportunities to provide regional approaches for meeting park and recreational demand.

(9) It is the intent that new or amended elements required after January 1, 2002, be adopted concurrent with the scheduled update provided in RCW 36.70A.130. Requirements to incorporate any such new or amended elements shall be null and void until funds sufficient to cover applicable local government costs are appropriated and distributed by the state at least two years before local government must update comprehensive plans as required in RCW 36.70A.130.

[2010 1st sp.s. c 26 § 6; 2005 c 360 § 2; (2005 c 477 § 1 expired August 31, 2005); 2004 c 196 § 1; 2003 c 152 § 1. Prior: 2002 c 212 § 2; 2002 c 154 § 2; 1998 c 171 § 2; 1997 c 429 § 7; 1996 c 239 § 1; prior: 1995 c 400 § 3; 1995 c 377 § 1; 1990 1st ex.s. c 17 § 7.]

Notes:

Expiration date -- 2005 c 477 § 1: "Section 1 of this act expires August 31, 2005." [2005 c 477 § 3.]

Effective date -- 2005 c 477: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 13, 2005]." [2005 c 477 § 2.]

Findings -- Intent -- 2005 c 360: "The legislature finds that regular physical activity is essential to maintaining good health and reducing the rates of chronic disease. The legislature further finds that providing opportunities for walking, biking, horseback riding, and other regular forms of exercise is best accomplished through collaboration between the private sector and local, state, and institutional policymakers. This collaboration can build communities where people find it easy and safe to be physically active. It is the intent of the legislature to promote policy and planning efforts that increase access to inexpensive or free opportunities for regular exercise in all communities around the state." [2005 c 360 § 1.]

Prospective application -- 1997 c 429 §§ 1-21: See note following RCW 36.70A.3201.

Severability -- 1997 c 429: See note following RCW 36.70A.3201.

Construction -- Application -- 1995 c 400: "A comprehensive plan adopted or amended before May 16, 1995, shall be considered to be in compliance with RCW 36.70A.070 or 36.70A.110, as in effect before their amendment by this act, if the comprehensive plan is in compliance with RCW 36.70A.070 and 36.70A.110 as amended by this act. This section shall not be construed to alter the relationship between a countywide planning policy and comprehensive plans as specified under RCW 36.70A.210.

As to any appeal relating to compliance with RCW 36.70A.070 or 36.70A.110 pending before a growth management hearings board on May 16, 1995, the board may take up to an additional ninety days to resolve such appeal. By mutual agreement of all parties to the appeal, this additional ninety-day period may be extended." [1995 c 400 § 4.]

Effective date -- 1995 c 400: See note following RCW 36.70A.040.

36.70A.080

Comprehensive plans — Optional elements.

(1) A comprehensive plan may include additional elements, items, or studies dealing with other subjects relating to the physical development within its jurisdiction, including, but not limited to:

- (a) Conservation;
- (b) Solar energy; and

(c) Recreation.

(2) A comprehensive plan may include, where appropriate, subarea plans, each of which is consistent with the comprehensive plan.

(3)(a) Cities that qualify as a receiving city may adopt a comprehensive plan element and associated development regulations that apply within receiving areas under chapter 39.108 RCW.

(b) For purposes of this subsection, the terms "receiving city" and "receiving area" have the same meanings as provided in RCW 39.108.010.

[2011 c 318 § 801; 1990 1st ex.s. c 17 § 8.]

Notes:

Rules -- 2011 c 318: See note following RCW 39.108.005.

36.70A.085

Comprehensive plans — Port elements.

(1) Comprehensive plans of cities that have a marine container port with annual operating revenues in excess of sixty million dollars within their jurisdiction must include a container port element.

(2) Comprehensive plans of cities that include all or part of a port district with annual operating revenues in excess of twenty million dollars may include a marine industrial port element. Prior to adopting a marine industrial port element under this subsection (2), the commission of the applicable port district must adopt a resolution in support of the proposed element.

(3) Port elements adopted under subsections (1) and (2) of this section must be developed collaboratively between the city and the applicable port, and must establish policies and programs that:

(a) Define and protect the core areas of port and port-related industrial uses within the city;

(b) Provide reasonably efficient access to the core area through freight corridors within the city limits; and

(c) Identify and resolve key land use conflicts along the edge of the core area, and minimize and mitigate, to the extent practicable, incompatible uses along the edge of the core area.

(4) Port elements adopted under subsections (1) and (2) of this section must be:

(a) Completed and approved by the city according to the schedule specified in RCW 36.70A.130; and

(b) Consistent with the economic development, transportation, and land use elements of the city's comprehensive plan, and consistent with the city's capital facilities plan.

(5) In adopting port elements under subsections (1) and (2) of this section, cities and ports must: Ensure that there is consistency between the port elements and the port comprehensive scheme required under chapters 53.20 and 53.25 RCW; and retain sufficient planning flexibility to secure emerging economic opportunities.

(6) In developing port elements under subsections (1) and (2) of this section, a city may utilize one or more of the following approaches:

(a) Creation of a port overlay district that protects container port uses;

(b) Use of industrial land banks;

(c) Use of buffers and transition zones between incompatible uses;

(d) Use of joint transportation funding agreements;

(e) Use of policies to encourage the retention of valuable warehouse and storage facilities;

- (f) Use of limitations on the location or size, or both, of nonindustrial uses in the core area and surrounding areas; and
- (g) Use of other approaches by agreement between the city and the port.

(7) The *department of community, trade, and economic development must provide matching grant funds to cities meeting the requirements of subsection (1) of this section to support development of the required container port element.

(8) Any planned improvements identified in port elements adopted under subsections (1) and (2) of this section must be transmitted by the city to the transportation commission for consideration of inclusion in the statewide transportation plan required under RCW 47.01.071.

[2009 c 514 § 2.]

Notes:

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Findings -- Intent -- 2009 c 514: "(1) The legislature finds that Washington's marine container ports operate within a complex system of marine terminal operations, truck and train transportation corridors, and industrial services that together support a critical amount of our state and national economy, including key parts of our state's manufacturing and agricultural sectors, and directly create thousands of high-wage jobs throughout our region.

(2) The legislature further finds that the container port services are increasingly challenged by the conversion of industrial properties to nonindustrial uses, leading to competing and incompatible uses that can hinder port operations, restrict efficient movement of freight, and limit the opportunity for improvements to existing port-related facilities.

(3) It is the intent of the legislature to ensure that local land use decisions are made in consideration of the long-term and widespread economic contribution of our international container ports and related industrial lands and transportation systems, and to ensure that container ports continue to function effectively alongside vibrant city waterfronts." [2009 c 514 § 1.]

36.70A.090

Comprehensive plans — Innovative techniques.

A comprehensive plan should provide for innovative land use management techniques, including, but not limited to, density bonuses, cluster housing, planned unit developments, and the transfer of development rights.

[1990 1st ex.s. c 17 § 9.]

36.70A.100

Comprehensive plans — Must be coordinated.

The comprehensive plan of each county or city that is adopted pursuant to RCW 36.70A.040 shall be coordinated with, and consistent with, the comprehensive plans adopted pursuant to RCW 36.70A.040 of other counties or cities with which the county or city has, in part, common borders or related regional issues.

[1990 1st ex.s. c 17 § 10.]

36.70A.103

State agencies required to comply with comprehensive plans.

State agencies shall comply with the local comprehensive plans and development regulations and amendments thereto adopted pursuant to this chapter except as otherwise provided in RCW 71.09.250 (1) through (3), 71.09.342, and

72.09.333.

The provisions of chapter 12, Laws of 2001 2nd sp. sess. do not affect the state's authority to site any other essential public facility under RCW 36.70A.200 in conformance with local comprehensive plans and development regulations adopted pursuant to chapter 36.70A RCW.

[2002 c 68 § 15; 2001 2nd sp.s. c 12 § 203; 1991 sp.s. c 32 § 4.]

Notes:

Purpose -- Severability -- Effective date -- 2002 c 68: See notes following RCW 36.70A.200.

Intent -- Severability -- Effective dates -- 2001 2nd sp.s. c 12: See notes following RCW 71.09.250.

36.70A.106

Comprehensive plans — Development regulations — Transmittal to state — Amendments — Expedited review.

(1) Each county and city proposing adoption of a comprehensive plan or development regulations under this chapter shall notify the department of its intent to adopt such plan or regulations at least sixty days prior to final adoption. State agencies including the department may provide comments to the county or city on the proposed comprehensive plan, or proposed development regulations, during the public review process prior to adoption.

(2) Each county and city planning under this chapter shall transmit a complete and accurate copy of its comprehensive plan or development regulations to the department within ten days after final adoption.

(3)(a) Any amendments for permanent changes to a comprehensive plan or development regulation that are proposed by a county or city to its adopted plan or regulations shall be submitted to the department in the same manner as initial plans and development regulations under this section. Any amendments to a comprehensive plan or development regulations that are adopted by a county or city shall be transmitted to the department in the same manner as the initial plans and regulations under this section.

(b) Each county and city planning under this chapter may request expedited review for any amendments for permanent changes to a development regulation. Upon receiving a request for expedited review, and after consultation with other state agencies, the department may grant expedited review if the department determines that expedited review does not compromise the state's ability to provide timely comments related to compliance with the goals and requirements of this chapter or on other matters of state interest. Cities and counties may adopt amendments for permanent changes to a development regulation immediately following the granting of the request for expedited review by the department.

[2004 c 197 § 1; 1991 sp.s. c 32 § 8.]

36.70A.108

Comprehensive plans — Transportation element — Multimodal transportation improvements and strategies.

(1) The transportation element required by RCW 36.70A.070 may include, in addition to improvements or strategies to accommodate the impacts of development authorized under RCW 36.70A.070(6)(b), multimodal transportation improvements or strategies that are made concurrent with the development. These transportation improvements or strategies may include, but are not limited to, measures implementing or evaluating:

(a) Multiple modes of transportation with peak and nonpeak hour capacity performance standards for locally owned transportation facilities; and

(b) Modal performance standards meeting the peak and nonpeak hour capacity performance standards.

(2) Nothing in this section or RCW 36.70A.070(6)(b) shall be construed as prohibiting a county or city planning under RCW 36.70A.040 from exercising existing authority to develop multimodal improvements or strategies to satisfy the concurrency requirements of this chapter.

(3) Nothing in this section is intended to affect or otherwise modify the authority of jurisdictions planning under RCW 36.70A.040.

[2005 c 328 § 1.]

36.70A.110

Comprehensive plans — Urban growth areas.

(1) Each county that is required or chooses to plan under RCW 36.70A.040 shall designate an urban growth area or areas within which urban growth shall be encouraged and outside of which growth can occur only if it is not urban in nature. Each city that is located in such a county shall be included within an urban growth area. An urban growth area may include more than a single city. An urban growth area may include territory that is located outside of a city only if such territory already is characterized by urban growth whether or not the urban growth area includes a city, or is adjacent to territory already characterized by urban growth, or is a designated new fully contained community as defined by RCW 36.70A.350.

(2) Based upon the growth management population projection made for the county by the office of financial management, the county and each city within the county shall include areas and densities sufficient to permit the urban growth that is projected to occur in the county or city for the succeeding twenty-year period, except for those urban growth areas contained totally within a national historical reserve. As part of this planning process, each city within the county must include areas sufficient to accommodate the broad range of needs and uses that will accompany the projected urban growth including, as appropriate, medical, governmental, institutional, commercial, service, retail, and other nonresidential uses.

Each urban growth area shall permit urban densities and shall include greenbelt and open space areas. In the case of urban growth areas contained totally within a national historical reserve, the city may restrict densities, intensities, and forms of urban growth as determined to be necessary and appropriate to protect the physical, cultural, or historic integrity of the reserve. An urban growth area determination may include a reasonable land market supply factor and shall permit a range of urban densities and uses. In determining this market factor, cities and counties may consider local circumstances. Cities and counties have discretion in their comprehensive plans to make many choices about accommodating growth.

Within one year of July 1, 1990, each county that as of June 1, 1991, was required or chose to plan under RCW 36.70A.040, shall begin consulting with each city located within its boundaries and each city shall propose the location of an urban growth area. Within sixty days of the date the county legislative authority of a county adopts its resolution of intention or of certification by the office of financial management, all other counties that are required or choose to plan under RCW 36.70A.040 shall begin this consultation with each city located within its boundaries. The county shall attempt to reach agreement with each city on the location of an urban growth area within which the city is located. If such an agreement is not reached with each city located within the urban growth area, the county shall justify in writing why it so designated the area an urban growth area. A city may object formally with the department over the designation of the urban growth area within which it is located. Where appropriate, the department shall attempt to resolve the conflicts, including the use of mediation services.

(3) Urban growth should be located first in areas already characterized by urban growth that have adequate existing public facility and service capacities to serve such development, second in areas already characterized by urban growth that will be served adequately by a combination of both existing public facilities and services and any additional needed public facilities and services that are provided by either public or private sources, and third in the remaining portions of the urban growth areas. Urban growth may also be located in designated new fully contained communities as defined by RCW 36.70A.350.

(4) In general, cities are the units of local government most appropriate to provide urban governmental services. In general, it is not appropriate that urban governmental services be extended to or expanded in rural areas except in those limited circumstances shown to be necessary to protect basic public health and safety and the environment and when such services are financially supportable at rural densities and do not permit urban development.

(5) On or before October 1, 1993, each county that was initially required to plan under RCW 36.70A.040(1) shall adopt development regulations designating interim urban growth areas under this chapter. Within three years and three months of the date the county legislative authority of a county adopts its resolution of intention or of certification by the office of financial management, all other counties that are required or choose to plan under RCW 36.70A.040 shall adopt development regulations designating interim urban growth areas under this chapter. Adoption of the interim urban growth

areas may only occur after public notice; public hearing; and compliance with the state environmental policy act, chapter 43.21C RCW, and under this section. Such action may be appealed to the growth management hearings board under RCW 36.70A.280. Final urban growth areas shall be adopted at the time of comprehensive plan adoption under this chapter.

(6) Each county shall include designations of urban growth areas in its comprehensive plan.

(7) An urban growth area designated in accordance with this section may include within its boundaries urban service areas or potential annexation areas designated for specific cities or towns within the county.

(8)(a) Except as provided in (b) of this subsection, the expansion of an urban growth area is prohibited into the one hundred year floodplain of any river or river segment that: (i) is located west of the crest of the Cascade mountains; and (ii) has a mean annual flow of one thousand or more cubic feet per second as determined by the department of ecology.

(b) Subsection (8)(a) of this section does not apply to:

(i) Urban growth areas that are fully contained within a floodplain and lack adjacent buildable areas outside the floodplain;

(ii) Urban growth areas where expansions are precluded outside floodplains because:

(A) Urban governmental services cannot be physically provided to serve areas outside the floodplain; or

(B) Expansions outside the floodplain would require a river or estuary crossing to access the expansion; or

(iii) Urban growth area expansions where:

(A) Public facilities already exist within the floodplain and the expansion of an existing public facility is only possible on the land to be included in the urban growth area and located within the floodplain; or

(B) Urban development already exists within a floodplain as of July 26, 2009, and is adjacent to, but outside of, the urban growth area, and the expansion of the urban growth area is necessary to include such urban development within the urban growth area; or

(C) The land is owned by a jurisdiction planning under this chapter or the rights to the development of the land have been permanently extinguished, and the following criteria are met:

(I) The permissible use of the land is limited to one of the following: Outdoor recreation; environmentally beneficial projects, including but not limited to habitat enhancement or environmental restoration; storm water facilities; flood control facilities; or underground conveyances; and

(II) The development and use of such facilities or projects will not decrease flood storage, increase storm water runoff, discharge pollutants to fresh or salt waters during normal operations or floods, or increase hazards to people and property.

(c) For the purposes of this subsection (8), "one hundred year floodplain" means the same as "special flood hazard area" as set forth in WAC 173-158-040 as it exists on July 26, 2009.

[2010 c 211 § 1. Prior: 2009 c 342 § 1; 2009 c 121 § 1; 2004 c 206 § 1; 2003 c 299 § 5; 1997 c 429 § 24; 1995 c 400 § 2; 1994 c 249 § 27; 1993 sp.s. c 6 § 2; 1991 sp.s. c 32 § 29; 1990 1st ex.s. c 17 § 11.]

Notes:

Effective date--Transfer of power, duties, and functions -- 2010 c 211: See notes following RCW 36.70A.250.

Severability -- 1997 c 429: See note following RCW 36.70A.3201.

Construction -- Application -- 1995 c 400: See note following RCW 36.70A.070.

Effective date -- 1995 c 400: See note following RCW 36.70A.040.

Severability -- Application -- 1994 c 249: See notes following RCW 34.05.310.

Effective date -- 1993 sp.s. c 6: See note following RCW 36.70A.040.

36.70A.115

Comprehensive plans and development regulations must provide sufficient land capacity for development.

Counties and cities that are required or choose to plan under RCW 36.70A.040 shall ensure that, taken collectively, adoption of and amendments to their comprehensive plans and/or development regulations provide sufficient capacity of land suitable for development within their jurisdictions to accommodate their allocated housing and employment growth, including the accommodation of, as appropriate, the medical, governmental, educational, institutional, commercial, and industrial facilities related to such growth, as adopted in the applicable countywide planning policies and consistent with the twenty-year population forecast from the office of financial management.

[2009 c 121 § 3; 2003 c 333 § 1.]

36.70A.120

Planning activities and capital budget decisions — Implementation in conformity with comprehensive plan.

Each county and city that is required or chooses to plan under RCW 36.70A.040 shall perform its activities and make capital budget decisions in conformity with its comprehensive plan.

[1993 sp.s. c 6 § 3; 1990 1st ex.s. c 17 § 12.]

Notes:

Effective date -- 1993 sp.s. c 6: See note following RCW 36.70A.040.

36.70A.130

Comprehensive plans — Review procedures and schedules — Amendments.

(1)(a) Each comprehensive land use plan and development regulations shall be subject to continuing review and evaluation by the county or city that adopted them. Except as otherwise provided, a county or city shall take legislative action to review and, if needed, revise its comprehensive land use plan and development regulations to ensure the plan and regulations comply with the requirements of this chapter according to the deadlines in subsections (4) and (5) of this section.

(b) Except as otherwise provided, a county or city not planning under RCW 36.70A.040 shall take action to review and, if needed, revise its policies and development regulations regarding critical areas and natural resource lands adopted according to this chapter to ensure these policies and regulations comply with the requirements of this chapter according to the deadlines in subsections (4) and (5) of this section. Legislative action means the adoption of a resolution or ordinance following notice and a public hearing indicating at a minimum, a finding that a review and evaluation has occurred and identifying the revisions made, or that a revision was not needed and the reasons therefor.

(c) The review and evaluation required by this subsection shall include, but is not limited to, consideration of critical area ordinances and, if planning under RCW 36.70A.040, an analysis of the population allocated to a city or county from the most recent ten-year population forecast by the office of financial management.

(d) Any amendment of or revision to a comprehensive land use plan shall conform to this chapter. Any amendment of or revision to development regulations shall be consistent with and implement the comprehensive plan.

(2)(a) Each county and city shall establish and broadly disseminate to the public a public participation program consistent with RCW 36.70A.035 and 36.70A.140 that identifies procedures and schedules whereby updates, proposed amendments, or revisions of the comprehensive plan are considered by the governing body of the county or city no more frequently than once every year, except that, until December 31, 2015, the program shall provide for consideration of amendments of an urban growth area in accordance with RCW 36.70A.1301 once every year. "Updates" means to review and revise, if needed, according to subsection (1) of this section, and the deadlines in subsections (4) and (5) of this

section or in accordance with the provisions of subsection (6) of this section. Amendments may be considered more frequently than once per year under the following circumstances:

(i) The initial adoption of a subarea plan. Subarea plans adopted under this subsection (2)(a)(i) must clarify, supplement, or implement jurisdiction-wide comprehensive plan policies, and may only be adopted if the cumulative impacts of the proposed plan are addressed by appropriate environmental review under chapter 43.21C RCW;

(ii) The development of an initial subarea plan for economic development located outside of the one hundred year floodplain in a county that has completed a state-funded pilot project that is based on watershed characterization and local habitat assessment;

(iii) The adoption or amendment of a shoreline master program under the procedures set forth in chapter 90.58 RCW;

(iv) The amendment of the capital facilities element of a comprehensive plan that occurs concurrently with the adoption or amendment of a county or city budget; or

(v) The adoption of comprehensive plan amendments necessary to enact a planned action under *RCW 43.21C.031 (2), provided that amendments are considered in accordance with the public participation program established by the county or city under this subsection (2)(a) and all persons who have requested notice of a comprehensive plan update are given notice of the amendments and an opportunity to comment.

(b) Except as otherwise provided in (a) of this subsection, all proposals shall be considered by the governing body concurrently so the cumulative effect of the various proposals can be ascertained. However, after appropriate public participation a county or city may adopt amendments or revisions to its comprehensive plan that conform with this chapter whenever an emergency exists or to resolve an appeal of a comprehensive plan filed with the growth management hearings board or with the court.

(3)(a) Each county that designates urban growth areas under RCW 36.70A.110 shall review, according to the schedules established in subsection (5) of this section, its designated urban growth area or areas, and the densities permitted within both the incorporated and unincorporated portions of each urban growth area. In conjunction with this review by the county, each city located within an urban growth area shall review the densities permitted within its boundaries, and the extent to which the urban growth occurring within the county has located within each city and the unincorporated portions of the urban growth areas.

(b) The county comprehensive plan designating urban growth areas, and the densities permitted in the urban growth areas by the comprehensive plans of the county and each city located within the urban growth areas, shall be revised to accommodate the urban growth projected to occur in the county for the succeeding twenty-year period. The review required by this subsection may be combined with the review and evaluation required by RCW 36.70A.215.

(4) Except as provided in subsection (6) of this section, counties and cities shall take action to review and, if needed, revise their comprehensive plans and development regulations to ensure the plan and regulations comply with the requirements of this chapter as follows:

(a) On or before December 1, 2004, for Clallam, Clark, Jefferson, King, Kitsap, Pierce, Snohomish, Thurston, and Whatcom counties and the cities within those counties;

(b) On or before December 1, 2005, for Cowlitz, Island, Lewis, Mason, San Juan, Skagit, and Skamania counties and the cities within those counties;

(c) On or before December 1, 2006, for Benton, Chelan, Douglas, Grant, Kittitas, Spokane, and Yakima counties and the cities within those counties; and

(d) On or before December 1, 2007, for Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, and Whitman counties and the cities within those counties.

(5) Except as otherwise provided in subsections (6) and (8) of this section, following the review of comprehensive plans and development regulations required by subsection (4) of this section, counties and cities shall take action to review and, if needed, revise their comprehensive plans and development regulations to ensure the plan and regulations comply with the requirements of this chapter as follows:

(a) On or before June 30, 2015, and every eight years thereafter, for King, Pierce, and Snohomish counties and the cities within those counties;

(b) On or before June 30, 2016, and every eight years thereafter, for Clallam, Clark, Island, Jefferson, Kitsap, Mason, San Juan, Skagit, Thurston, and Whatcom counties and the cities within those counties;

(c) On or before June 30, 2017, and every eight years thereafter, for Benton, Chelan, Cowlitz, Douglas, Kittitas, Lewis, Skamania, Spokane, and Yakima counties and the cities within those counties; and

(d) On or before June 30, 2018, and every eight years thereafter, for Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, and Whitman counties and the cities within those counties.

(6)(a) Nothing in this section precludes a county or city from conducting the review and evaluation required by this section before the deadlines established in subsections (4) and (5) of this section. Counties and cities may begin this process early and may be eligible for grants from the department, subject to available funding, if they elect to do so.

(b) A county that is subject to a deadline established in subsection (4)(b) through (d) of this section and meets the following criteria may comply with the requirements of this section at any time within the thirty-six months following the deadline established in subsection (4) of this section: The county has a population of less than fifty thousand and has had its population increase by no more than seventeen percent in the ten years preceding the deadline established in subsection (4) of this section as of that date.

(c) A city that is subject to a deadline established in subsection (4)(b) through (d) of this section and meets the following criteria may comply with the requirements of this section at any time within the thirty-six months following the deadline established in subsection (4) of this section: The city has a population of no more than five thousand and has had its population increase by the greater of either no more than one hundred persons or no more than seventeen percent in the ten years preceding the deadline established in subsection (4) of this section as of that date.

(d) A county or city that is subject to a deadline established in subsection (4)(d) of this section and that meets the criteria established in (b) or (c) of this subsection may comply with the requirements of subsection (4)(d) of this section at any time within the thirty-six months after the extension provided in (b) or (c) of this subsection.

(e) A county that is subject to a deadline established in subsection (5)(b) through (d) of this section and meets the following criteria may comply with the requirements of this section at any time within the twenty-four months following the deadline established in subsection (5) of this section: The county has a population of less than fifty thousand and has had its population increase by no more than seventeen percent in the ten years preceding the deadline established in subsection (5) of this section as of that date.

(f) A city that is subject to a deadline established in subsection (5)(b) through (d) of this section and meets the following criteria may comply with the requirements of this section at any time within the twenty-four months following the deadline established in subsection (5) of this section: The city has a population of no more than five thousand and has had its population increase by the greater of either no more than one hundred persons or no more than seventeen percent in the ten years preceding the deadline established in subsection (5) of this section as of that date.

(g) State agencies are encouraged to provide technical assistance to the counties and cities in the review of critical area ordinances, comprehensive plans, and development regulations.

(7)(a) The requirements imposed on counties and cities under this section shall be considered "requirements of this chapter" under the terms of RCW 36.70A.040(1). Only those counties and cities that meet the following criteria may receive grants, loans, pledges, or financial guarantees under chapter 43.155 or 70.146 RCW:

(i) Complying with the deadlines in this section;

(ii) Demonstrating substantial progress towards compliance with the schedules in this section for development regulations that protect critical areas; or

(iii) Complying with the extension provisions of subsection (6)(b), (c), or (d) of this section.

(b) A county or city that is fewer than twelve months out of compliance with the schedules in this section for development regulations that protect critical areas is making substantial progress towards compliance. Only those counties and cities in compliance with the schedules in this section may receive preference for grants or loans subject to the provisions of RCW 43.17.250.

(8)(a) Except as otherwise provided in (c) of this subsection, if a participating watershed is achieving benchmarks and

goals for the protection of critical areas functions and values, the county is not required to update development regulations to protect critical areas as they specifically apply to agricultural activities in that watershed.

(b) A county that has made the election under RCW 36.70A.710(1) may only adopt or amend development regulations to protect critical areas as they specifically apply to agricultural activities in a participating watershed if:

(i) A work plan has been approved for that watershed in accordance with RCW 36.70A.725;

(ii) The local watershed group for that watershed has requested the county to adopt or amend development regulations as part of a work plan developed under RCW 36.70A.720;

(iii) The adoption or amendment of the development regulations is necessary to enable the county to respond to an order of the growth management hearings board or court;

(iv) The adoption or amendment of development regulations is necessary to address a threat to human health or safety; or

(v) Three or more years have elapsed since the receipt of funding.

(c) Beginning ten years from the date of receipt of funding, a county that has made the election under RCW 36.70A.710(1) must review and, if necessary, revise development regulations to protect critical areas as they specifically apply to agricultural activities in a participating watershed in accordance with the review and revision requirements and timeline in subsection (5) of this section. This subsection (8)(c) does not apply to a participating watershed that has determined under RCW 36.70A.720(2)(c)(ii) that the watershed's goals and benchmarks for protection have been met.

[2012 c 191 § 1. Prior: 2011 c 360 § 16; 2011 c 353 § 2; prior: 2010 c 216 § 1; 2010 c 211 § 2; 2009 c 479 § 23; 2006 c 285 § 2; prior: 2005 c 423 § 6; 2005 c 294 § 2; 2002 c 320 § 1; 1997 c 429 § 10; 1995 c 347 § 106; 1990 1st ex.s. c 17 § 13.]

Notes:

***Reviser's note:** The requirements for a planned action were moved by 2012 1st sp.s. c 1 from RCW 43.21C.031 to RCW 43.21C.440.

Intent -- 2011 c 353: "It is the legislature's intent to provide local governments with more time to meet certain statutory requirements. Many cities and counties in Washington are facing revenue shortfalls, higher expenses, and more difficulty with borrowing money as a result of the economic downturn. The effects of the economic downturn on the budgets of local governments will be felt most deeply from 2010 to 2012. Local governments are facing the combined impact of decreased tax revenues, a falloff in state and federal aid, and increased demand for social services. With the loss of tax revenue and state and federal aid, local governments are being forced to make significant cuts that will eliminate jobs, curtail essential services, and increase the number of people in need. Additionally, local governments are struggling to comply with certain statutory requirements. Local governments want to comply with these statutory requirements, but with budget constraints, they need more time to do so. The legislature does not intend to remove any existing statutory requirement, but rather modify the time under which a local government must meet certain statutory requirements." [2011 c 353 § 1.]

Effective date -- Transfer of power, duties, and functions -- 2010 c 211: See notes following RCW 36.70A.250.

Effective date -- 2009 c 479: See note following RCW 2.56.030.

Intent -- 2006 c 285: "There is a statewide interest in maintaining coordinated planning as called for in the legislative findings of the growth management act, RCW 36.70A.010. It is the intent of the legislature that smaller, slower-growing counties and cities be provided with flexibility in meeting the requirements to review local plans and development regulations in RCW 36.70A.130, while ensuring coordination and consistency with the plans of neighboring cities and counties." [2006 c 285 § 1.]

Intent -- Effective date -- 2005 c 423: See notes following RCW 36.70A.030.

Intent -- 2005 c 294: "The legislature recognizes the importance of appropriate and meaningful land use measures and that such measures are critical to preserving and fostering the quality of life enjoyed by Washingtonians. The legislature recognizes also that the growth management act requires counties and cities to review and, if needed, revise their comprehensive plans and development regulations on a cyclical basis. These requirements, which often require significant compliance efforts by local governments are, in part, an acknowledgment of the continual changes

that occur within the state, and the need to ensure that land use measures reflect the collective wishes of its citizenry.

The legislature acknowledges that only those jurisdictions in compliance with the review and revision schedules of the growth management act are eligible to receive funds from the public works assistance and water quality accounts in the state treasury. The legislature further recognizes that some jurisdictions that are not yet in compliance with these review and revision schedules have demonstrated substantial progress towards compliance.

The legislature, therefore, intends to grant jurisdictions that are not in compliance with requirements for development regulations that protect critical areas, but are demonstrating substantial progress towards compliance with these requirements, twelve months of additional eligibility to receive grants, loans, pledges, or financial guarantees from the public works assistance and water quality accounts in the state treasury. The legislature intends to specify, however, that only counties and cities in compliance with the review and revision schedules of the growth management act may receive preference for financial assistance from these accounts." [2005 c 294 § 1.]

Effective date -- 2005 c 294: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 5, 2005]." [2005 c 294 § 3.]

Prospective application -- 1997 c 429 §§ 1-21: See note following RCW 36.70A.3201.

Severability -- 1997 c 429: See note following RCW 36.70A.3201.

Finding -- Severability -- Part headings and table of contents not law -- 1995 c 347: See notes following RCW 36.70A.470.

Definitions: See RCW 36.70A.703.

RCW 36.70A.130(2) does not apply to master planned locations in industrial land banks: RCW 36.70A.367(2)(c).

36.70A.1301

Request to amend urban growth area — Timing — Criteria. (Expires December 31, 2015.)

(1) The legislative authority of a city planning under RCW 36.70A.040 may request, as part of the county's annual comprehensive plan amendment process, that the applicable county legislative authority amend the urban growth area within which the city is located. A request must meet the county's application deadline for that year's comprehensive plan amendment process. A determination to honor, modify, or reject a request under this section must be issued by the county, as part of the county's annual comprehensive plan amendment process.

(2) Urban growth area amendment requests under this subsection:

(a) May only occur in counties located east of the crest of the Cascade mountain range that have more than one hundred thousand and fewer than two hundred thousand residents;

(b) Must be for the purpose of increasing the amount of territory within the amended urban growth area that is zoned for industrial purposes and the additional land is needed to meet the city's and county's documented needs for additional industrial land to serve their planned population growth;

(c) May not increase the amount of territory within the amended urban growth area by an amount exceeding seven percent of the total area within the requesting city. Land area determinations under this subsection (2)(c) must be made on a per occurrence, noncumulative basis;

(d) Must be preceded by a completed development proposal and phased master plan for the area to which the amendment applies and a capital facilities plan with identified funding sources to provide the public facilities and services needed to serve the area; and

(e) Are null and void if the applicable development proposal has not been wholly or partially implemented within five years of the amendment, or if the area to which the amendment applies has not been annexed within five years of the amendment.

(3) Nothing in this section limits or otherwise modifies the authority of counties and cities to enter into interlocal agreements under chapter 39.34 RCW for planning costs incurred by a county in accordance with a request under this

section.

(4) This section expires December 31, 2015.

[2012 c 191 § 2.]

36.70A.131

Mineral resource lands — Review of related designations and development regulations.

As part of the review required by RCW 36.70A.130(1), a county or city shall review its mineral resource lands designations adopted pursuant to RCW 36.70A.170 and mineral resource lands development regulations adopted pursuant to RCW 36.70A.040 and 36.70A.060. In its review, the county or city shall take into consideration:

(1) New information made available since the adoption or last review of its designations or development regulations, including data available from the department of natural resources relating to mineral resource deposits; and

(2) New or modified model development regulations for mineral resource lands prepared by the department of natural resources, the *department of community, trade, and economic development, or the Washington state association of counties.

[1998 c 286 § 7.]

Notes:

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

36.70A.140

Comprehensive plans — Ensure public participation.

Each county and city that is required or chooses to plan under RCW 36.70A.040 shall establish and broadly disseminate to the public a public participation program identifying procedures providing for early and continuous public participation in the development and amendment of comprehensive land use plans and development regulations implementing such plans. The procedures shall provide for broad dissemination of proposals and alternatives, opportunity for written comments, public meetings after effective notice, provision for open discussion, communication programs, information services, and consideration of and response to public comments. In enacting legislation in response to the board's decision pursuant to RCW 36.70A.300 declaring part or all of a comprehensive plan or development regulation invalid, the county or city shall provide for public participation that is appropriate and effective under the circumstances presented by the board's order. Errors in exact compliance with the established program and procedures shall not render the comprehensive land use plan or development regulations invalid if the spirit of the program and procedures is observed.

[1995 c 347 § 107; 1990 1st ex.s. c 17 § 14.]

Notes:

Finding -- Severability -- Part headings and table of contents not law -- 1995 c 347: See notes following RCW 36.70A.470.

36.70A.150

Identification of lands useful for public purposes.

Each county and city that is required or chooses to prepare a comprehensive land use plan under RCW 36.70A.040 shall identify lands useful for public purposes such as utility corridors, transportation corridors, landfills, sewage treatment facilities, storm water management facilities, recreation, schools, and other public uses. The county shall work with the

state and the cities within its borders to identify areas of shared need for public facilities. The jurisdictions within the county shall prepare a prioritized list of lands necessary for the identified public uses including an estimated date by which the acquisition will be needed.

The respective capital acquisition budgets for each jurisdiction shall reflect the jointly agreed upon priorities and time schedule.

[1991 c 322 § 23; 1990 1st ex.s. c 17 § 15.]

Notes:

Findings -- Intent -- 1991 c 322: See notes following RCW 86.12.200.

36.70A.160

Identification of open space corridors — Purchase authorized.

Each county and city that is required or chooses to prepare a comprehensive land use plan under RCW 36.70A.040 shall identify open space corridors within and between urban growth areas. They shall include lands useful for recreation, wildlife habitat, trails, and connection of critical areas as defined in RCW 36.70A.030. Identification of a corridor under this section by a county or city shall not restrict the use or management of lands within the corridor for agricultural or forest purposes. Restrictions on the use or management of such lands for agricultural or forest purposes imposed after identification solely to maintain or enhance the value of such lands as a corridor may occur only if the county or city acquires sufficient interest to prevent development of the lands or to control the resource development of the lands. The requirement for acquisition of sufficient interest does not include those corridors regulated by the interstate commerce commission, under provisions of 16 U.S.C. Sec. 1247(d), 16 U.S.C. Sec. 1248, or 43 U.S.C. Sec. 912. Nothing in this section shall be interpreted to alter the authority of the state, or a county or city, to regulate land use activities.

The city or county may acquire by donation or purchase the fee simple or lesser interests in these open space corridors using funds authorized by RCW 84.34.230 or other sources.

[1992 c 227 § 1; 1990 1st ex.s. c 17 § 16.]

36.70A.165

Property designated as greenbelt or open space — Not subject to adverse possession.

The legislature recognizes that the preservation of urban greenbelts is an integral part of comprehensive growth management in Washington. The legislature further recognizes that certain greenbelts are subject to adverse possession action which, if carried out, threaten the comprehensive nature of this chapter. Therefore, a party shall not acquire by adverse possession property that is designated as a plat greenbelt or open space area or that is dedicated as open space to a public agency or to a bona fide homeowner's association.

[1997 c 429 § 41.]

Notes:

Severability -- 1997 c 429: See note following RCW 36.70A.3201.

36.70A.170

Natural resource lands and critical areas — Designations.

(1) On or before September 1, 1991, each county, and each city, shall designate where appropriate:

(a) Agricultural lands that are not already characterized by urban growth and that have long-term significance for the commercial production of food or other agricultural products;

(b) Forest lands that are not already characterized by urban growth and that have long-term significance for the commercial production of timber;

(c) Mineral resource lands that are not already characterized by urban growth and that have long-term significance for the extraction of minerals; and

(d) Critical areas.

(2) In making the designations required by this section, counties and cities shall consider the guidelines established pursuant to RCW 36.70A.050.

[1990 1st ex.s. c 17 § 17.]

36.70A.171

Playing fields — Compliance with this chapter.

In accordance with RCW 36.70A.030, 36.70A.060, *36.70A.1701, and 36.70A.130, playing fields and supporting facilities existing before July 1, 2004, on designated recreational lands shall be considered in compliance with the requirements of this chapter.

[2005 c 423 § 5.]

Notes:

*Reviser's note: RCW 36.70A.1701 expired June 30, 2006.

Intent -- Effective date -- 2005 c 423: See notes following RCW 36.70A.030.

36.70A.172

Critical areas — Designation and protection — Best available science to be used.

(1) In designating and protecting critical areas under this chapter, counties and cities shall include the best available science in developing policies and development regulations to protect the functions and values of critical areas. In addition, counties and cities shall give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries.

(2) If it determines that advice from scientific or other experts is necessary or will be of substantial assistance in reaching its decision, the growth management hearings board may retain scientific or other expert advice to assist in reviewing a petition under RCW 36.70A.290 that involves critical areas.

[2010 c 211 § 3; 1995 c 347 § 105.]

Notes:

Effective date -- Transfer of power, duties, and functions -- 2010 c 211: See notes following RCW 36.70A.250.

Finding -- Severability -- Part headings and table of contents not law -- 1995 c 347: See notes following RCW 36.70A.470.

36.70A.175

Wetlands to be delineated in accordance with manual.

Wetlands regulated under development regulations adopted pursuant to this chapter shall be delineated in accordance with the manual adopted by the department pursuant to RCW 90.58.380.

[1995 c 382 § 12.]

36.70A.177

Agricultural lands — Innovative zoning techniques — Accessory uses.

(1) A county or a city may use a variety of innovative zoning techniques in areas designated as agricultural lands of long-term commercial significance under RCW 36.70A.170. The innovative zoning techniques should be designed to conserve agricultural lands and encourage the agricultural economy. Except as provided in subsection (3) of this section, a county or city should encourage nonagricultural uses to be limited to lands with poor soils or otherwise not suitable for agricultural purposes.

(2) Innovative zoning techniques a county or city may consider include, but are not limited to:

(a) Agricultural zoning, which limits the density of development and restricts or prohibits nonfarm uses of agricultural land and may allow accessory uses, including nonagricultural accessory uses and activities, that support, promote, or sustain agricultural operations and production, as provided in subsection (3) of this section;

(b) Cluster zoning, which allows new development on one portion of the land, leaving the remainder in agricultural or open space uses;

(c) Large lot zoning, which establishes as a minimum lot size the amount of land necessary to achieve a successful farming practice;

(d) Quarter/quarter zoning, which permits one residential dwelling on a one-acre minimum lot for each one-sixteenth of a section of land; and

(e) Sliding scale zoning, which allows the number of lots for single-family residential purposes with a minimum lot size of one acre to increase inversely as the size of the total acreage increases.

(3) Accessory uses allowed under subsection (2)(a) of this section shall comply with the following:

(a) Accessory uses shall be located, designed, and operated so as to not interfere with, and to support the continuation of, the overall agricultural use of the property and neighboring properties, and shall comply with the requirements of this chapter;

(b) Accessory uses may include:

(i) Agricultural accessory uses and activities, including but not limited to the storage, distribution, and marketing of regional agricultural products from one or more producers, agriculturally related experiences, or the production, marketing, and distribution of value-added agricultural products, including support services that facilitate these activities; and

(ii) Nonagricultural accessory uses and activities as long as they are consistent with the size, scale, and intensity of the existing agricultural use of the property and the existing buildings on the site. Nonagricultural accessory uses and activities, including new buildings, parking, or supportive uses, shall not be located outside the general area already developed for buildings and residential uses and shall not otherwise convert more than one acre of agricultural land to nonagricultural uses; and

(c) Counties and cities have the authority to limit or exclude accessory uses otherwise authorized in this subsection (3) in areas designated as agricultural lands of long-term commercial significance.

(4) This section shall not be interpreted to limit agricultural production on designated agricultural lands.

[2006 c 147 § 1; 2004 c 207 § 1; 1997 c 429 § 23.]

Notes:

Severability -- 1997 c 429: See note following RCW 36.70A.3201.

36.70A.180

Chapter implementation — Intent.

It is the intent of the legislature that counties and cities required to adopt a comprehensive plan under RCW 36.70A.040(1) begin implementing this chapter on or before July 1, 1990, including but not limited to: (1) Inventorying, designating, and conserving agricultural, forest, and mineral resource lands, and critical areas; and (2) considering the modification or adoption of comprehensive land use plans and development regulations implementing the comprehensive land use plans. It is also the intent of the legislature that funds be made available to counties and cities beginning July 1, 1990, to assist them in meeting the requirements of this chapter.

[2012 1st sp.s. c 5 § 3; 1990 1st ex.s. c 17 § 19.]

36.70A.190

Technical assistance, procedural criteria, grants, and mediation services.

(1) The department shall establish a program of technical and financial assistance and incentives to counties and cities to encourage and facilitate the adoption and implementation of comprehensive plans and development regulations throughout the state.

(2) The department shall develop a priority list and establish funding levels for planning and technical assistance grants both for counties and cities that plan under RCW 36.70A.040. Priority for assistance shall be based on a county's or city's population growth rates, commercial and industrial development rates, the existence and quality of a comprehensive plan and development regulations, and other relevant factors.

(3) The department shall develop and administer a grant program to provide direct financial assistance to counties and cities for the preparation of comprehensive plans under this chapter. The department may establish provisions for county and city matching funds to conduct activities under this subsection. Grants may be expended for any purpose directly related to the preparation of a county or city comprehensive plan as the county or city and the department may agree, including, without limitation, the conducting of surveys, inventories and other data gathering and management activities, the retention of planning consultants, contracts with regional councils for planning and related services, and other related purposes.

(4) The department shall establish a program of technical assistance:

(a) Utilizing department staff, the staff of other state agencies, and the technical resources of counties and cities to help in the development of comprehensive plans required under this chapter. The technical assistance may include, but not be limited to, model land use ordinances, regional education and training programs, and information for local and regional inventories; and

(b) Adopting by rule procedural criteria to assist counties and cities in adopting comprehensive plans and development regulations that meet the goals and requirements of this chapter. These criteria shall reflect regional and local variations and the diversity that exists among different counties and cities that plan under this chapter.

(5) The department shall provide mediation services to resolve disputes between counties and cities regarding, among other things, coordination of regional issues and designation of urban growth areas.

(6) The department shall provide planning grants to enhance citizen participation under RCW 36.70A.140.

[1991 sp.s. c 32 § 3; 1990 1st ex.s. c 17 § 20.]

36.70A.200

Siting of essential public facilities — Limitation on liability.

(1) The comprehensive plan of each county and city that is planning under RCW 36.70A.040 shall include a process for identifying and siting essential public facilities. Essential public facilities include those facilities that are typically difficult to site, such as airports, state education facilities and state or regional transportation facilities as defined in RCW 47.06.140, regional transit authority facilities as defined in RCW 81.112.020, state and local correctional facilities, solid

waste handling facilities, and inpatient facilities including substance abuse facilities, mental health facilities, group homes, and secure community transition facilities as defined in RCW 71.09.020.

(2) Each county and city planning under RCW 36.70A.040 shall, not later than September 1, 2002, establish a process, or amend its existing process, for identifying and siting essential public facilities and adopt or amend its development regulations as necessary to provide for the siting of secure community transition facilities consistent with statutory requirements applicable to these facilities.

(3) Any city or county not planning under RCW 36.70A.040 shall, not later than September 1, 2002, establish a process for siting secure community transition facilities and adopt or amend its development regulations as necessary to provide for the siting of such facilities consistent with statutory requirements applicable to these facilities.

(4) The office of financial management shall maintain a list of those essential state public facilities that are required or likely to be built within the next six years. The office of financial management may at any time add facilities to the list.

(5) No local comprehensive plan or development regulation may preclude the siting of essential public facilities.

(6) No person may bring a cause of action for civil damages based on the good faith actions of any county or city to provide for the siting of secure community transition facilities in accordance with this section and with the requirements of chapter 12, Laws of 2001 2nd sp. sess. For purposes of this subsection, "person" includes, but is not limited to, any individual, agency as defined in RCW 42.17A.005, corporation, partnership, association, and limited liability entity.

(7) Counties or cities siting facilities pursuant to subsection (2) or (3) of this section shall comply with RCW 71.09.341.

(8) The failure of a county or city to act by the deadlines established in subsections (2) and (3) of this section is not:

(a) A condition that would disqualify the county or city for grants, loans, or pledges under RCW 43.155.070 or 70.146.070;

(b) A consideration for grants or loans provided under RCW 43.17.250(3); or

(c) A basis for any petition under RCW 36.70A.280 or for any private cause of action.

[2013 c 275 § 5; 2011 c 60 § 17; 2010 c 62 § 1; 2002 c 68 § 2; 2001 2nd sp.s. c 12 § 205; 1998 c 171 § 3; 1991 sp.s. c 32 § 1.]

Notes:

Effective date -- 2011 c 60: See RCW 42.17A.919.

Purpose -- 2002 c 68: "The purpose of this act is to:

(1) Enable the legislature to act upon the recommendations of the joint select committee on the equitable distribution of secure community transition facilities established in section 225, chapter 12, Laws of 2001 2nd sp. sess.; and

(2) Harmonize the preemption provisions in RCW 71.09.250 with the preemption provisions applying to future secure community transition facilities to reflect the joint select committee's recommendation that the preemption granted for future secure community transition facilities be the same throughout the state." [2002 c 68 § 1.]

Severability -- 2002 c 68: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2002 c 68 § 19.]

Effective date -- 2002 c 68: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 21, 2002]." [2002 c 68 § 20.]

Intent -- Severability -- Effective dates -- 2001 2nd sp.s. c 12: See notes following RCW 71.09.250.

36.70A.210

Countywide planning policies.

(1) The legislature recognizes that counties are regional governments within their boundaries, and cities are primary providers of urban governmental services within urban growth areas. For the purposes of this section, a "countywide planning policy" is a written policy statement or statements used solely for establishing a countywide framework from which county and city comprehensive plans are developed and adopted pursuant to this chapter. This framework shall ensure that city and county comprehensive plans are consistent as required in RCW 36.70A.100. Nothing in this section shall be construed to alter the land-use powers of cities.

(2) The legislative authority of a county that plans under RCW 36.70A.040 shall adopt a countywide planning policy in cooperation with the cities located in whole or in part within the county as follows:

(a) No later than sixty calendar days from July 16, 1991, the legislative authority of each county that as of June 1, 1991, was required or chose to plan under RCW 36.70A.040 shall convene a meeting with representatives of each city located within the county for the purpose of establishing a collaborative process that will provide a framework for the adoption of a countywide planning policy. In other counties that are required or choose to plan under RCW 36.70A.040, this meeting shall be convened no later than sixty days after the date the county adopts its resolution of intention or was certified by the office of financial management.

(b) The process and framework for adoption of a countywide planning policy specified in (a) of this subsection shall determine the manner in which the county and the cities agree to all procedures and provisions including but not limited to desired planning policies, deadlines, ratification of final agreements and demonstration thereof, and financing, if any, of all activities associated therewith.

(c) If a county fails for any reason to convene a meeting with representatives of cities as required in (a) of this subsection, the governor may immediately impose any appropriate sanction or sanctions on the county from those specified under RCW 36.70A.340.

(d) If there is no agreement by October 1, 1991, in a county that was required or chose to plan under RCW 36.70A.040 as of June 1, 1991, or if there is no agreement within one hundred twenty days of the date the county adopted its resolution of intention or was certified by the office of financial management in any other county that is required or chooses to plan under RCW 36.70A.040, the governor shall first inquire of the jurisdictions as to the reason or reasons for failure to reach an agreement. If the governor deems it appropriate, the governor may immediately request the assistance of the *department of community, trade, and economic development to mediate any disputes that preclude agreement. If mediation is unsuccessful in resolving all disputes that will lead to agreement, the governor may impose appropriate sanctions from those specified under RCW 36.70A.340 on the county, city, or cities for failure to reach an agreement as provided in this section. The governor shall specify the reason or reasons for the imposition of any sanction.

(e) No later than July 1, 1992, the legislative authority of each county that was required or chose to plan under RCW 36.70A.040 as of June 1, 1991, or no later than fourteen months after the date the county adopted its resolution of intention or was certified by the office of financial management the county legislative authority of any other county that is required or chooses to plan under RCW 36.70A.040, shall adopt a countywide planning policy according to the process provided under this section and that is consistent with the agreement pursuant to (b) of this subsection, and after holding a public hearing or hearings on the proposed countywide planning policy.

(3) A countywide planning policy shall at a minimum, address the following:

(a) Policies to implement RCW 36.70A.110;

(b) Policies for promotion of contiguous and orderly development and provision of urban services to such development;

(c) Policies for siting public capital facilities of a countywide or statewide nature, including transportation facilities of statewide significance as defined in RCW 47.06.140;

(d) Policies for countywide transportation facilities and strategies;

(e) Policies that consider the need for affordable housing, such as housing for all economic segments of the population and parameters for its distribution;

(f) Policies for joint county and city planning within urban growth areas;

(g) Policies for countywide economic development and employment, which must include consideration of the future development of commercial and industrial facilities; and

(h) An analysis of the fiscal impact.

(4) Federal agencies and Indian tribes may participate in and cooperate with the countywide planning policy adoption process. Adopted countywide planning policies shall be adhered to by state agencies.

(5) Failure to adopt a countywide planning policy that meets the requirements of this section may result in the imposition of a sanction or sanctions on a county or city within the county, as specified in RCW 36.70A.340. In imposing a sanction or sanctions, the governor shall specify the reasons for failure to adopt a countywide planning policy in order that any imposed sanction or sanctions are fairly and equitably related to the failure to adopt a countywide planning policy.

(6) Cities and the governor may appeal an adopted countywide planning policy to the growth management hearings board within sixty days of the adoption of the countywide planning policy.

(7) Multicounty planning policies shall be adopted by two or more counties, each with a population of four hundred fifty thousand or more, with contiguous urban areas and may be adopted by other counties, according to the process established under this section or other processes agreed to among the counties and cities within the affected counties throughout the multicounty region.

[2009 c 121 § 2; 1998 c 171 § 4; 1994 c 249 § 28; 1993 sp.s. c 6 § 4; 1991 sp.s. c 32 § 2.]

Notes:

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Severability -- Application -- 1994 c 249: See notes following RCW 34.05.310.

Effective date -- 1993 sp.s. c 6: See note following RCW 36.70A.040.

36.70A.215

Review and evaluation program.

(1) Subject to the limitations in subsection (7) of this section, a county shall adopt, in consultation with its cities, countywide planning policies to establish a review and evaluation program. This program shall be in addition to the requirements of RCW 36.70A.110, 36.70A.130, and 36.70A.210. In developing and implementing the review and evaluation program required by this section, the county and its cities shall consider information from other appropriate jurisdictions and sources. The purpose of the review and evaluation program shall be to:

(a) Determine whether a county and its cities are achieving urban densities within urban growth areas by comparing growth and development assumptions, targets, and objectives contained in the countywide planning policies and the county and city comprehensive plans with actual growth and development that has occurred in the county and its cities; and

(b) Identify reasonable measures, other than adjusting urban growth areas, that will be taken to comply with the requirements of this chapter.

(2) The review and evaluation program shall:

(a) Encompass land uses and activities both within and outside of urban growth areas and provide for annual collection of data on urban and rural land uses, development, critical areas, and capital facilities to the extent necessary to determine the quantity and type of land suitable for development, both for residential and employment-based activities;

(b) Provide for evaluation of the data collected under (a) of this subsection as provided in subsection (3) of this section. The evaluation shall be completed no later than one year prior to the deadline for review and, if necessary, update of comprehensive plans and development regulations as required by RCW 36.70A.130. The county and its cities may establish in the countywide planning policies indicators, benchmarks, and other similar criteria to use in conducting the evaluation;

(c) Provide for methods to resolve disputes among jurisdictions relating to the countywide planning policies required by this section and procedures to resolve inconsistencies in collection and analysis of data; and

(d) Provide for the amendment of the countywide policies and county and city comprehensive plans as needed to remedy an inconsistency identified through the evaluation required by this section, or to bring these policies into compliance with the requirements of this chapter.

(3) At a minimum, the evaluation component of the program required by subsection (1) of this section shall:

(a) Determine whether there is sufficient suitable land to accommodate the countywide population projection established for the county pursuant to RCW 43.62.035 and the subsequent population allocations within the county and between the county and its cities and the requirements of RCW 36.70A.110;

(b) Determine the actual density of housing that has been constructed and the actual amount of land developed for commercial and industrial uses within the urban growth area since the adoption of a comprehensive plan under this chapter or since the last periodic evaluation as required by subsection (1) of this section; and

(c) Based on the actual density of development as determined under (b) of this subsection, review commercial, industrial, and housing needs by type and density range to determine the amount of land needed for commercial, industrial, and housing for the remaining portion of the twenty-year planning period used in the most recently adopted comprehensive plan.

(4) If the evaluation required by subsection (3) of this section demonstrates an inconsistency between what has occurred since the adoption of the countywide planning policies and the county and city comprehensive plans and development regulations and what was envisioned in those policies and plans and the planning goals and the requirements of this chapter, as the inconsistency relates to the evaluation factors specified in subsection (3) of this section, the county and its cities shall adopt and implement measures that are reasonably likely to increase consistency during the subsequent five-year period. If necessary, a county, in consultation with its cities as required by RCW 36.70A.210, shall adopt amendments to countywide planning policies to increase consistency. The county and its cities shall annually monitor the measures adopted under this subsection to determine their effect and may revise or rescind them as appropriate.

(5)(a) Not later than July 1, 1998, the department shall prepare a list of methods used by counties and cities in carrying out the types of activities required by this section. The department shall provide this information and appropriate technical assistance to counties and cities required to or choosing to comply with the provisions of this section.

(b) By December 31, 2007, the department shall submit to the appropriate committees of the legislature a report analyzing the effectiveness of the activities described in this section in achieving the goals envisioned by the countywide planning policies and the comprehensive plans and development regulations of the counties and cities.

(6) From funds appropriated by the legislature for this purpose, the department shall provide grants to counties, cities, and regional planning organizations required under subsection (7) of this section to conduct the review and perform the evaluation required by this section.

(7) The provisions of this section shall apply to counties, and the cities within those counties, that were greater than one hundred fifty thousand in population in 1995 as determined by office of financial management population estimates and that are located west of the crest of the Cascade mountain range. Any other county planning under RCW 36.70A.040 may carry out the review, evaluation, and amendment programs and procedures as provided in this section.

[2011 c 353 § 3; 1997 c 429 § 25.]

Notes:

Intent -- 2011 c 353: See note following RCW 36.70A.130.

Severability -- 1997 c 429: See note following RCW 36.70A.3201.

36.70A.250

Growth management hearings board — Creation — Members.

(1) A growth management hearings board for the state of Washington is created. The board shall consist of seven members qualified by experience or training in matters pertaining to land use law or land use planning and who have experience in the practical application of those matters. All seven board members shall be appointed by the governor, two each residing respectively in the central Puget Sound, eastern Washington, and western Washington regions, plus one

board member residing within the state of Washington. At least three members of the board shall be admitted to practice law in this state, one each residing respectively in the central Puget Sound, eastern Washington, and western Washington regions. At least three members of the board shall have been a city or county elected official, one each residing respectively in the central Puget Sound, eastern Washington, and western Washington regions. After expiration of the terms of board members on the previously existing three growth management hearings boards, no more than four members of the seven-member board may be members of the same major political party. No more than two members at the time of their appointment or during their term may reside in the same county.

(2) Each member of the board shall be appointed for a term of six years. A vacancy shall be filled by appointment by the governor for the unexpired portion of the term in which the vacancy occurs. Members of the previously existing three growth management hearings boards appointed before July 1, 2010, shall complete their staggered, six-year terms as members of the growth management hearings board created under subsection (1) of this section. The reduction from nine board members on the previously existing three growth management hearings boards to seven total members on the growth management hearings board shall be made through attrition, voluntary resignation, or retirement.

[2010 c 211 § 4; 1994 c 249 § 29; 1991 sp.s. c 32 § 5.]

Notes:

Effective date -- 2010 c 211: "This act takes effect July 1, 2010." [2010 c 211 § 18.]

Transfer of power, duties, and functions -- 2010 c 211: "(1) The three growth management hearings boards are abolished and their powers, duties, and functions are transferred to the growth management hearings board.

(2) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the three growth management hearings boards must be delivered to the custody of the growth management hearings board. All office furnishings, office equipment, motor vehicles, and other tangible property in the possession of the three growth management hearings boards must be made available to the growth management hearings board.

(3) All funds, credits, or other assets held by the three growth management hearings boards must, on July 1, 2010, be transferred to the growth management hearings board. Any appropriations made to the three growth management hearings boards must, on July 1, 2010, be transferred and credited to the growth management hearings board. If any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(4) All employees of the three growth management hearings boards are transferred to the growth management hearings board. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the growth management hearings board to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(5) This section may not be construed to alter any existing collective bargaining unit or the provisions of any existing collective bargaining agreement until the agreement has expired or until the bargaining unit has been modified by action of the public employment relations commission as provided by law.

(6) All rules and pending business before the three growth management hearings boards must be continued and acted upon by the growth management hearings board. All existing contracts and obligations remain in full force and must be performed by the growth management hearings board.

(7) The transfer of the powers, duties, functions, and personnel of the three growth management hearings boards to the growth management hearings board does not affect the validity of any act performed before July 1, 2010.

(8) All cases decided and all orders previously issued by the three growth management hearings boards remain in full force and effect and are not affected by this act." [2010 c 211 § 17.]

Severability -- Application -- 1994 c 249: See notes following RCW 34.05.310.

36.70A.252

Growth management hearings board — Consolidation into environmental and land use hearings office.

(1) On July 1, 2011, the growth management hearings board is administratively consolidated into the environmental and land use hearings office created in RCW 43.21B.005.

(2) Not later than July 1, 2012, the growth management hearings board consists of seven members qualified by experience or training in matters pertaining to land use law or land use planning, except that the governor may reduce the board to six members if warranted by the board's caseload. All board members must be appointed by the governor, two each residing respectively in the central Puget Sound, eastern Washington, and western Washington regions and shall continue to meet the qualifications set out in *RCW 36.70A.260. The reduction from seven board members to six board members must be made through attrition, voluntary resignation, or retirement.

[2010 c 210 § 15.]

Notes:

***Reviser's note:** RCW 36.70A.260 was amended by 2010 c 211 § 5, eliminating the reference to board member qualifications. 2010 c 211 § 4 added board member qualifications to RCW 36.70A.250.

Intent -- Effective dates -- Application -- Pending cases and rules -- 2010 c 210: See notes following RCW 43.21B.001.

36.70A.260

Growth management hearings board — Regional panels.

(1) Each petition for review that is filed with the growth management hearings board shall be heard and decided by a regional panel of growth management hearings board members. Regional panels shall be constituted as follows:

(a) Central Puget Sound region. A three-member central Puget Sound panel shall be selected to hear matters pertaining to cities and counties located within the region comprised of King, Pierce, Snohomish, and Kitsap counties.

(b) Eastern Washington region. A three-member eastern Washington panel shall be selected to hear matters pertaining to cities and counties that are required or choose to plan under RCW 36.70A.040 and are located east of the crest of the Cascade mountains.

(c) Western Washington region. A three-member western Washington panel shall be selected to hear matters pertaining to cities and counties that are required or choose to plan under RCW 36.70A.040, are located west of the crest of the Cascade mountains, and are not included in the central Puget Sound region. Skamania county, if it is required or chooses to plan under RCW 36.70A.040, may elect to be included within either the western Washington region or the eastern Washington region.

(2)(a) Each regional panel selected to hear and decide cases shall consist of three board members, at least a majority of whom shall reside within the region in which the case arose, unless such members cannot sit on a particular case because of recusal or disqualification, or unless the board administrative officer determines that there is an emergency including, but not limited to, the unavailability of a board member due to illness, absence, vacancy, or significant workload imbalance. The presiding officer of each case shall reside within the region in which the case arose, unless the board administrative officer determines that there is an emergency.

(b) Except as provided otherwise in this subsection (2)(b), each regional panel must: (i) include one member admitted to practice law in this state; (ii) include one member who has been a city or county elected official; and (iii) reflect the political composition of the board. The requirements of this subsection (2)(b) may be waived by the board administrative officer due to member unavailability, significant workload imbalances, or other reasons.

[2010 c 211 § 5; 1994 c 249 § 30; 1991 sp.s. c 32 § 6.]

Notes:

Effective date -- Transfer of power, duties, and functions -- 2010 c 211: See notes following RCW 36.70A.250.

Severability -- Application -- 1994 c 249: See notes following RCW 34.05.310.

36.70A.270

Growth management hearings board — Conduct, procedure, and compensation.

The growth management hearings board shall be governed by the following rules on conduct and procedure:

(1) Any board member may be removed for inefficiency, malfeasance, and misfeasance in office, under specific written charges filed by the governor. The governor shall transmit such written charges to the member accused and the chief justice of the supreme court. The chief justice shall thereupon designate a tribunal composed of three judges of the superior court to hear and adjudicate the charges. Removal of any member of the board by the tribunal shall disqualify such member for reappointment.

(2) Each board member shall receive reimbursement for travel expenses incurred in the discharge of his or her duties in accordance with RCW 43.03.050 and 43.03.060. Each member shall receive an annual salary to be determined by the governor pursuant to RCW 43.03.040. The principal office of the board shall be located in Olympia.

(3) Each board member shall not: (a) Be a candidate for or hold any other public office or trust; (b) engage in any occupation or business interfering with or inconsistent with his or her duty as a board member; and (c) for a period of one year after the termination of his or her board membership, act in a representative capacity before the board on any matter.

(4) A majority of the board shall constitute a quorum for adopting rules necessary for the conduct of its powers and duties or transacting other official business, and may act even though one position of the board is vacant. One or more members may hold hearings and take testimony to be reported for action by the board when authorized by rule or order of the board. The board shall perform all the powers and duties specified in this chapter or as otherwise provided by law.

(5) The board may use one or more hearing examiners to assist the board in its hearing function, to make conclusions of law and findings of fact and, if requested by the board, to make recommendations to the board for decisions in cases before the board. Such hearing examiners must have demonstrated knowledge of land use planning and law. The board shall specify in its rules of practice and procedure, as required by subsection (7) of this section, the procedure and criteria to be employed for designating hearing examiners as a presiding officer. Hearing examiners used by the board shall meet the requirements of subsection (3) of this section. The findings and conclusions of the hearing examiner shall not become final until they have been formally approved by the board. This authorization to use hearing examiners does not waive the requirement of RCW 36.70A.300 that final orders be issued within one hundred eighty days of board receipt of a petition.

(6) The board shall make findings of fact and prepare a written decision in each case decided by it, and such findings and decision shall be effective upon being signed by two or more members of the regional panel deciding the particular case and upon being filed at the board's principal office, and shall be open for public inspection at all reasonable times.

(7) All proceedings before the board, any of its members, or a hearing examiner appointed by the board shall be conducted in accordance with such administrative rules of practice and procedure as the board prescribes. The board shall develop and adopt rules of practice and procedure, including rules regarding expeditious and summary disposition of appeals and the assignment of cases to regional panels. The board shall publish such rules and decisions it renders and arrange for the reasonable distribution of the rules and decisions. Except as it conflicts with specific provisions of this chapter, the administrative procedure act, chapter 34.05 RCW, and specifically including the provisions of RCW 34.05.455 governing ex parte communications, shall govern the practice and procedure of the board.

(8) A board member or hearing examiner is subject to disqualification under chapter 34.05 RCW. The rules of practice of the board shall establish procedures by which a party to a hearing conducted before the board may file with the board a motion to disqualify, with supporting affidavit, against a board member or hearing examiner assigned to preside at the hearing.

(9) All members of the board shall meet on at least an annual basis with the objective of sharing information that promotes the goals and purposes of this chapter.

(10) The board shall annually elect one of its members to be the board administrative officer. The duties and responsibilities of the administrative officer include handling day-to-day administrative, budget, and personnel matters on behalf of the board, together with making case assignments to board members in accordance with the board's rules of procedure in order to achieve a fair and balanced workload among all board members. The administrative officer of the board may carry a reduced caseload to allow time for performing the administrative work functions.

[2010 c 211 § 6; 2010 c 210 § 16; 1997 c 429 § 11; 1996 c 325 § 1; 1994 c 257 § 1; 1991 sp.s. c 32 § 7.]

Notes:

Reviser's note: This section was amended by 2010 c 210 § 16 and by 2010 c 211 § 6, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date -- Transfer of power, duties, and functions -- 2010 c 211: See notes following RCW 36.70A.250.

Intent -- Effective dates -- Application -- Pending cases and rules -- 2010 c 210: See notes following RCW 43.21B.001.

Prospective application -- 1997 c 429 §§ 1-21: See note following RCW 36.70A.3201.

Severability -- 1997 c 429: See note following RCW 36.70A.3201.

Severability -- 1996 c 325: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1996 c 325 § 6.]

Effective date -- 1996 c 325: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [March 30, 1996]." [1996 c 325 § 7.]

Severability -- 1994 c 257: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1994 c 257 § 26.]

36.70A.280

Growth management hearings board — Matters subject to review. (Effective until December 31, 2020.)

(1) The growth management hearings board shall hear and determine only those petitions alleging either:

(a) That, except as provided otherwise by this subsection, a state agency, county, or city planning under this chapter is not in compliance with the requirements of this chapter, chapter 90.58 RCW as it relates to the adoption of shoreline master programs or amendments thereto, or chapter 43.21C RCW as it relates to plans, development regulations, or amendments, adopted under RCW 36.70A.040 or chapter 90.58 RCW. Nothing in this subsection authorizes the board to hear petitions alleging noncompliance with *RCW 36.70A.5801;

(b) That the twenty-year growth management planning population projections adopted by the office of financial management pursuant to RCW 43.62.035 should be adjusted;

(c) That the approval of a work plan adopted under RCW 36.70A.735(1)(a) is not in compliance with the requirements of the program established under RCW 36.70A.710;

(d) That regulations adopted under RCW 36.70A.735(1)(b) are not regionally applicable and cannot be adopted, wholly or partially, by another jurisdiction;

(e) That a department certification under RCW 36.70A.735(1)(c) is erroneous; or

(f) That a department determination under RCW 36.70A.060(1)(d) is erroneous.

(2) A petition may be filed only by: (a) The state, or a county or city that plans under this chapter; (b) a person who has participated orally or in writing before the county or city regarding the matter on which a review is being requested; (c) a person who is certified by the governor within sixty days of filing the request with the board; or (d) a person qualified pursuant to RCW 34.05.530.

(3) For purposes of this section "person" means any individual, partnership, corporation, association, state agency, governmental subdivision or unit thereof, or public or private organization or entity of any character.

(4) To establish participation standing under subsection (2)(b) of this section, a person must show that his or her participation before the county or city was reasonably related to the person's issue as presented to the board.

(5) When considering a possible adjustment to a growth management planning population projection prepared by the office of financial management, the board shall consider the implications of any such adjustment to the population forecast for the entire state.

The rationale for any adjustment that is adopted by the board must be documented and filed with the office of financial management within ten working days after adoption.

If adjusted by the board, a county growth management planning population projection shall only be used for the planning purposes set forth in this chapter and shall be known as the "board adjusted population projection." None of these changes shall affect the official state and county population forecasts prepared by the office of financial management, which shall continue to be used for state budget and planning purposes.

[2014 c 147 § 3; 2011 c 360 § 17; 2010 c 211 § 7; 2008 c 289 § 5; 2003 c 332 § 2; 1996 c 325 § 2; 1995 c 347 § 108; 1994 c 249 § 31; 1991 sp.s. c 32 § 9.]

Notes:

***Reviser's note:** RCW 36.70A.5801 expired January 1, 2011.

Expiration date -- 2014 c 147 § 3: "Section 3 of this act expires December 31, 2020." [2014 c 147 § 4.]

Effective date -- Transfer of power, duties, and functions -- 2010 c 211: See notes following RCW 36.70A.250.

Findings -- 2008 c 289: "(1) The legislature recognizes that the implications of a changed climate will affect the people, institutions, and economies of Washington. The legislature also recognizes that it is in the public interest to reduce the state's dependence upon foreign sources of carbon fuels that do not promote energy independence or the economic strength of the state. The legislature finds that the state, including its counties, cities, and residents, must engage in activities that reduce greenhouse gas emissions and dependence upon foreign oil.

(2) The legislature further recognizes that: (a) Patterns of land use development influence transportation-related greenhouse gas emissions and the need for foreign oil; (b) fossil fuel-based transportation is the largest source of greenhouse gas emissions in Washington; and (c) the state and its residents will not achieve emission reductions established in *RCW 80.80.020 without a significant decrease in transportation emissions.

(3) The legislature, therefore, finds that it is in the public interest of the state to provide appropriate legal authority, where required, and to aid in the development of policies, practices, and methodologies that may assist counties and cities in addressing challenges associated with greenhouse gas emissions and our state's dependence upon foreign oil." [2008 c 289 § 1.]

***Reviser's note:** RCW 80.80.020 was repealed by 2008 c 14 § 13.

Application -- 2008 c 289: "This act is not intended to amend or affect chapter 353, Laws of 2007." [2008 c 289 § 6.]

Intent -- 2003 c 332: "This act is intended to codify the Washington State Court of Appeals holding in *Wells v. Western Washington Growth Management Hearings Board*, 100 Wn. App. 657 (2000), by mandating that to establish participation standing under the growth management act, a person must show that his or her participation before the county or city was reasonably related to the person's issue as presented to the growth management hearings board." [2003 c 332 § 1.]

Severability -- Effective date -- 1996 c 325: See notes following RCW 36.70A.270.

Finding -- Severability -- Part headings and table of contents not law -- 1995 c 347: See notes following RCW 36.70A.470.

Severability -- Application -- 1994 c 249: See notes following RCW 34.05.310.

Definitions: See RCW 36.70A.703.

36.70A.280

Growth management hearings board — Matters subject to review. (*Effective December 31, 2020.*)

(1) The growth management hearings board shall hear and determine only those petitions alleging either:

(a) That, except as provided otherwise by this subsection, a state agency, county, or city planning under this chapter is not in compliance with the requirements of this chapter, chapter 90.58 RCW as it relates to the adoption of shoreline master programs or amendments thereto, or chapter 43.21C RCW as it relates to plans, development regulations, or amendments, adopted under RCW 36.70A.040 or chapter 90.58 RCW. Nothing in this subsection authorizes the board to hear petitions alleging noncompliance with *RCW 36.70A.5801;

(b) That the twenty-year growth management planning population projections adopted by the office of financial management pursuant to RCW 43.62.035 should be adjusted;

(c) That the approval of a work plan adopted under RCW 36.70A.735(1)(a) is not in compliance with the requirements of the program established under RCW 36.70A.710;

(d) That regulations adopted under RCW 36.70A.735(1)(b) are not regionally applicable and cannot be adopted, wholly or partially, by another jurisdiction; or

(e) That a department certification under RCW 36.70A.735(1)(c) is erroneous.

(2) A petition may be filed only by: (a) The state, or a county or city that plans under this chapter; (b) a person who has participated orally or in writing before the county or city regarding the matter on which a review is being requested; (c) a person who is certified by the governor within sixty days of filing the request with the board; or (d) a person qualified pursuant to RCW 34.05.530.

(3) For purposes of this section "person" means any individual, partnership, corporation, association, state agency, governmental subdivision or unit thereof, or public or private organization or entity of any character.

(4) To establish participation standing under subsection (2)(b) of this section, a person must show that his or her participation before the county or city was reasonably related to the person's issue as presented to the board.

(5) When considering a possible adjustment to a growth management planning population projection prepared by the office of financial management, the board shall consider the implications of any such adjustment to the population forecast for the entire state.

The rationale for any adjustment that is adopted by the board must be documented and filed with the office of financial management within ten working days after adoption.

If adjusted by the board, a county growth management planning population projection shall only be used for the planning purposes set forth in this chapter and shall be known as the "board adjusted population projection." None of these changes shall affect the official state and county population forecasts prepared by the office of financial management, which shall continue to be used for state budget and planning purposes.

[2011 c 360 § 17; 2010 c 211 § 7; 2008 c 289 § 5; 2003 c 332 § 2; 1996 c 325 § 2; 1995 c 347 § 108; 1994 c 249 § 31; 1991 sp.s. c 32 § 9.]

Notes:

***Reviser's note:** RCW 36.70A.5801 expired January 1, 2011.

Effective date -- Transfer of power, duties, and functions -- 2010 c 211: See notes following RCW 36.70A.250.

Findings -- 2008 c 289: "(1) The legislature recognizes that the implications of a changed climate will affect the people, institutions, and economies of Washington. The legislature also recognizes that it is in the public interest to reduce the state's dependence upon foreign sources of carbon fuels that do not promote energy independence or the economic strength of the state. The legislature finds that the state, including its counties, cities, and residents, must engage in activities that reduce greenhouse gas emissions and dependence upon foreign oil.

(2) The legislature further recognizes that: (a) Patterns of land use development influence transportation-related greenhouse gas emissions and the need for foreign oil; (b) fossil fuel-based transportation is the largest source of greenhouse gas emissions in Washington; and (c) the state and its residents will not achieve emission reductions established in *RCW 80.80.020 without a significant decrease in transportation emissions.

(3) The legislature, therefore, finds that it is in the public interest of the state to provide appropriate legal authority, where required, and to aid in the development of policies, practices, and methodologies that may assist counties and cities in addressing challenges associated with greenhouse gas emissions and our state's dependence upon foreign oil." [2008 c 289 § 1.]

*Reviser's note: RCW 80.80.020 was repealed by 2008 c 14 § 13.

Application -- 2008 c 289: "This act is not intended to amend or affect chapter 353, Laws of 2007." [2008 c 289 § 6.]

Intent -- 2003 c 332: "This act is intended to codify the Washington State Court of Appeals holding in *Wells v. Western Washington Growth Management Hearings Board*, 100 Wn. App. 657 (2000), by mandating that to establish participation standing under the growth management act, a person must show that his or her participation before the county or city was reasonably related to the person's issue as presented to the growth management hearings board." [2003 c 332 § 1.]

Severability -- Effective date -- 1996 c 325: See notes following RCW 36.70A.270.

Finding -- Severability -- Part headings and table of contents not law -- 1995 c 347: See notes following RCW 36.70A.470.

Severability -- Application -- 1994 c 249: See notes following RCW 34.05.310.

Definitions: See RCW 36.70A.703.

36.70A.290

Growth management hearings board — Petitions — Evidence.

(1) All requests for review to the growth management hearings board shall be initiated by filing a petition that includes a detailed statement of issues presented for resolution by the board. The board shall render written decisions articulating the basis for its holdings. The board shall not issue advisory opinions on issues not presented to the board in the statement of issues, as modified by any prehearing order.

(2) All petitions relating to whether or not an adopted comprehensive plan, development regulation, or permanent amendment thereto, is in compliance with the goals and requirements of this chapter or chapter 90.58 or 43.21C RCW must be filed within sixty days after publication as provided in (a) through (c) of this subsection.

(a) Except as provided in (c) of this subsection, the date of publication for a city shall be the date the city publishes the ordinance, or summary of the ordinance, adopting the comprehensive plan or development regulations, or amendment thereto, as is required to be published.

(b) Promptly after adoption, a county shall publish a notice that it has adopted the comprehensive plan or development regulations, or amendment thereto.

Except as provided in (c) of this subsection, for purposes of this section the date of publication for a county shall be the date the county publishes the notice that it has adopted the comprehensive plan or development regulations, or amendment thereto.

(c) For local governments planning under RCW 36.70A.040, promptly after approval or disapproval of a local government's shoreline master program or amendment thereto by the department of ecology as provided in RCW 90.58.090, the department of ecology shall publish a notice that the shoreline master program or amendment thereto has been approved or disapproved. For purposes of this section, the date of publication for the adoption or amendment of a shoreline master program is the date the department of ecology publishes notice that the shoreline master program or amendment thereto has been approved or disapproved.

(3) Unless the board dismisses the petition as frivolous or finds that the person filing the petition lacks standing, or the

parties have filed an agreement to have the case heard in superior court as provided in RCW 36.70A.295, the board shall, within ten days of receipt of the petition, set a time for hearing the matter.

(4) The board shall base its decision on the record developed by the city, county, or the state and supplemented with additional evidence if the board determines that such additional evidence would be necessary or of substantial assistance to the board in reaching its decision.

(5) The board, shall consolidate, when appropriate, all petitions involving the review of the same comprehensive plan or the same development regulation or regulations.

[2011 c 277 § 1; 2010 c 211 § 8; 1997 c 429 § 12; 1995 c 347 § 109. Prior: 1994 c 257 § 2; 1994 c 249 § 26; 1991 sp.s. c 32 § 10.]

Notes:

Effective date -- Transfer of power, duties, and functions -- 2010 c 211: See notes following RCW 36.70A.250.

Prospective application -- 1997 c 429 §§ 1-21: See note following RCW 36.70A.3201.

Severability -- 1997 c 429: See note following RCW 36.70A.3201.

Finding -- Severability -- Part headings and table of contents not law -- 1995 c 347: See notes following RCW 36.70A.470.

Severability -- 1994 c 257: See note following RCW 36.70A.270.

Severability -- Application -- 1994 c 249: See notes following RCW 34.05.310.

36.70A.295

Growth management hearings board — Direct judicial review.

(1) The superior court may directly review a petition for review filed under RCW 36.70A.290 if all parties to the proceeding before the board have agreed to direct review in the superior court. The agreement of the parties shall be in writing and signed by all of the parties to the proceeding or their designated representatives. The agreement shall include the parties' agreement to proper venue as provided in RCW 36.70A.300(5). The parties shall file their agreement with the board within ten days after the date the petition is filed, or if multiple petitions have been filed and the board has consolidated the petitions pursuant to RCW 36.70A.300, within ten days after the board serves its order of consolidation.

(2) Within ten days of receiving the timely and complete agreement of the parties, the board shall file a certificate of agreement with the designated superior court and shall serve the parties with copies of the certificate. The superior court shall obtain exclusive jurisdiction over a petition when it receives the certificate of agreement. With the certificate of agreement the board shall also file the petition for review, any orders entered by the board, all other documents in the board's files regarding the action, and the written agreement of the parties.

(3) For purposes of a petition that is subject to direct review, the superior court's subject matter jurisdiction shall be equivalent to that of the board. Consistent with the requirements of the superior court civil rules, the superior court may consolidate a petition subject to direct review under this section with a separate action filed in the superior court.

(4)(a) Except as otherwise provided in (b) and (c) of this subsection, the provisions of RCW 36.70A.280 through 36.70A.330, which specify the nature and extent of board review, shall apply to the superior court's review.

(b) The superior court:

(i) Shall not have jurisdiction to directly review or modify an office of financial management population projection;

(ii) Except as otherwise provided in RCW 36.70A.300(2)(b), shall render its decision on the petition within one hundred eighty days of receiving the certification of agreement; and

(iii) Shall give a compliance hearing under RCW 36.70A.330(2) the highest priority of all civil matters before the court.

(c) An aggrieved party may secure appellate review of a final judgment of the superior court under this section by the supreme court or the court of appeals. The review shall be secured in the manner provided by law for review of superior court decisions in other civil cases.

(5) If, following a compliance hearing, the court finds that the state agency, county, or city is not in compliance with the court's prior order, the court may use its remedial and contempt powers to enforce compliance.

(6) The superior court shall transmit a copy of its decision and order on direct review to the board, the department, and the governor. If the court has determined that a county or city is not in compliance with the provisions of this chapter, the governor may impose sanctions against the county or city in the same manner as if the board had recommended the imposition of sanctions as provided in RCW 36.70A.330.

(7) After the court has assumed jurisdiction over a petition for review under this section, the superior court civil rules shall govern a request for intervention and all other procedural matters not specifically provided for in this section.

[2010 c 211 § 9; 1997 c 429 § 13.]

Notes:

Effective date -- Transfer of power, duties, and functions -- 2010 c 211: See notes following RCW 36.70A.250.

Prospective application -- 1997 c 429 §§ 1-21: See note following RCW 36.70A.3201.

Severability -- 1997 c 429: See note following RCW 36.70A.3201.

36.70A.300

Final orders.

(1) The board shall issue a final order that shall be based exclusively on whether or not a state agency, county, or city is in compliance with the requirements of this chapter, chapter 90.58 RCW as it relates to adoption or amendment of shoreline master programs, or chapter 43.21C RCW as it relates to adoption of plans, development regulations, and amendments thereto, under RCW 36.70A.040 or chapter 90.58 RCW.

(2)(a) Except as provided in (b) of this subsection, the final order shall be issued within one hundred eighty days of receipt of the petition for review, or, if multiple petitions are filed, within one hundred eighty days of receipt of the last petition that is consolidated.

(b) The board may extend the period of time for issuing a decision to enable the parties to settle the dispute if additional time is necessary to achieve a settlement, and (i) an extension is requested by all parties, or (ii) an extension is requested by the petitioner and respondent and the board determines that a negotiated settlement between the remaining parties could resolve significant issues in dispute. The request must be filed with the board not later than seven days before the date scheduled for the hearing on the merits of the petition. The board may authorize one or more extensions for up to ninety days each, subject to the requirements of this section.

(3) In the final order, the board shall either:

(a) Find that the state agency, county, or city is in compliance with the requirements of this chapter, chapter 90.58 RCW as it relates to the adoption or amendment of shoreline master programs, or chapter 43.21C RCW as it relates to adoption of plans, development regulations, and amendments thereto, under RCW 36.70A.040 or chapter 90.58 RCW; or

(b) Find that the state agency, county, or city is not in compliance with the requirements of this chapter, chapter 90.58 RCW as it relates to the adoption or amendment of shoreline master programs, or chapter 43.21C RCW as it relates to adoption of plans, development regulations, and amendments thereto, under RCW 36.70A.040 or chapter 90.58 RCW, in which case the board shall remand the matter to the affected state agency, county, or city. The board shall specify a reasonable time not in excess of one hundred eighty days, or such longer period as determined by the board in cases of unusual scope or complexity, within which the state agency, county, or city shall comply with the requirements of this chapter. The board may require periodic reports to the board on the progress the jurisdiction is making towards compliance.

(4)(a) Unless the board makes a determination of invalidity under RCW 36.70A.302, a finding of noncompliance and

an order of remand shall not affect the validity of comprehensive plans and development regulations during the period of remand.

(b) Unless the board makes a determination of invalidity, state agencies, commissions, and governing boards may not determine a county, city, or town to be ineligible or otherwise penalized in the acceptance of applications or the awarding of state agency grants or loans during the period of remand. This subsection (4)(b) applies only to counties, cities, and towns that have: (i) Delayed the initial effective date of the action subject to the petition before the board until after the board issues a final determination; or (ii) within thirty days of receiving notice of a petition for review by the board, delayed or suspended the effective date of the action subject to the petition before the board until after the board issues a final determination.

(5) Any party aggrieved by a final decision of the hearings board may appeal the decision to superior court as provided in RCW 34.05.514 or 36.01.050 within thirty days of the final order of the board. Unless the board makes a determination of invalidity under RCW 36.70A.302, state agencies, commissions, or governing boards shall not penalize counties, cities, or towns during the pendency of an appeal as provided in RCW 43.17.250.

[2013 c 275 § 1; 1997 c 429 § 14; 1995 c 347 § 110; 1991 sp.s. c 32 § 11.]

Notes:

Prospective application -- 1997 c 429 §§ 1-21: See note following RCW 36.70A.3201.

Severability -- 1997 c 429: See note following RCW 36.70A.3201.

Finding -- Severability -- Part headings and table of contents not law -- 1995 c 347: See notes following RCW 36.70A.470.

36.70A.302

Growth management hearings board — Determination of invalidity — Vesting of development permits — Interim controls.

(1) The board may determine that part or all of a comprehensive plan or development regulations are invalid if the board:

(a) Makes a finding of noncompliance and issues an order of remand under RCW 36.70A.300;

(b) Includes in the final order a determination, supported by findings of fact and conclusions of law, that the continued validity of part or parts of the plan or regulation would substantially interfere with the fulfillment of the goals of this chapter; and

(c) Specifies in the final order the particular part or parts of the plan or regulation that are determined to be invalid, and the reasons for their invalidity.

(2) A determination of invalidity is prospective in effect and does not extinguish rights that vested under state or local law before receipt of the board's order by the city or county. The determination of invalidity does not apply to a completed development permit application for a project that vested under state or local law before receipt of the board's order by the county or city or to related construction permits for that project.

(3)(a) Except as otherwise provided in subsection (2) of this section and (b) of this subsection, a development permit application not vested under state or local law before receipt of the board's order by the county or city vests to the local ordinance or resolution that is determined by the board not to substantially interfere with the fulfillment of the goals of this chapter.

(b) Even though the application is not vested under state or local law before receipt by the county or city of the board's order, a determination of invalidity does not apply to a development permit application for:

(i) A permit for construction by any owner, lessee, or contract purchaser of a single-family residence for his or her own use or for the use of his or her family on a lot existing before receipt by the county or city of the board's order, except as otherwise specifically provided in the board's order to protect the public health and safety;

(ii) A building permit and related construction permits for remodeling, tenant improvements, or expansion of an existing

structure on a lot existing before receipt of the board's order by the county or city; and

(iii) A boundary line adjustment or a division of land that does not increase the number of buildable lots existing before receipt of the board's order by the county or city.

(4) If the ordinance that adopts a plan or development regulation under this chapter includes a savings clause intended to revive prior policies or regulations in the event the new plan or regulations are determined to be invalid, the board shall determine under subsection (1) of this section whether the prior policies or regulations are valid during the period of remand.

(5) A county or city subject to a determination of invalidity may adopt interim controls and other measures to be in effect until it adopts a comprehensive plan and development regulations that comply with the requirements of this chapter. A development permit application may vest under an interim control or measure upon determination by the board that the interim controls and other measures do not substantially interfere with the fulfillment of the goals of this chapter.

(6) A county or city subject to a determination of invalidity may file a motion requesting that the board clarify, modify, or rescind the order. The board shall expeditiously schedule a hearing on the motion. At the hearing on the motion, the parties may present information to the board to clarify the part or parts of the comprehensive plan or development regulations to which the final order applies. The board shall issue any supplemental order based on the information provided at the hearing not later than thirty days after the date of the hearing.

(7)(a) If a determination of invalidity has been made and the county or city has enacted an ordinance or resolution amending the invalidated part or parts of the plan or regulation or establishing interim controls on development affected by the order of invalidity, after a compliance hearing, the board shall modify or rescind the determination of invalidity if it determines under the standard in subsection (1) of this section that the plan or regulation, as amended or made subject to such interim controls, will no longer substantially interfere with the fulfillment of the goals of this chapter.

(b) If the board determines that part or parts of the plan or regulation are no longer invalid as provided in this subsection, but does not find that the plan or regulation is in compliance with all of the requirements of this chapter, the board, in its order, may require periodic reports to the board on the progress the jurisdiction is making towards compliance.

[2010 c 211 § 10; 1997 c 429 § 16.]

Notes:

Effective date -- Transfer of power, duties, and functions -- 2010 c 211: See notes following RCW 36.70A.250.

Prospective application -- 1997 c 429 §§ 1-21: See note following RCW 36.70A.3201.

Severability -- 1997 c 429: See note following RCW 36.70A.3201.

36.70A.305

Expedited review.

The court shall provide expedited review of a determination of invalidity or an order effectuating a determination of invalidity made or issued under *RCW 36.70A.300. The matter must be set for hearing within sixty days of the date set for submitting the board's record, absent a showing of good cause for a different date or a stipulation of the parties.

[1996 c 325 § 4.]

Notes:

***Reviser's note:** The reference to RCW 36.70A.300 appears to refer to the amendments made by 1996 c 325 § 3, which was vetoed by the governor.

Severability -- Effective date -- 1996 c 325: See notes following RCW 36.70A.270.

36.70A.310

Growth management hearings board — Limitations on appeal by the state.

A request for review by the state to the growth management hearings board may be made only by the governor, or with the governor's consent the head of an agency, or by the commissioner of public lands as relating to state trust lands, for the review of whether: (1) A county or city that is required or chooses to plan under RCW 36.70A.040 has failed to adopt a comprehensive plan or development regulations, or countywide planning policies within the time limits established by this chapter; or (2) a county or city that is required or chooses to plan under this chapter has adopted a comprehensive plan, development regulations, or countywide planning policies, that are not in compliance with the requirements of this chapter.

[2010 c 211 § 11; 1994 c 249 § 32; 1991 sp.s. c 32 § 12.]

Notes:

Effective date -- Transfer of power, duties, and functions -- 2010 c 211: See notes following RCW 36.70A.250.

Severability -- Application -- 1994 c 249: See notes following RCW 34.05.310.

36.70A.320

Presumption of validity — Burden of proof — Plans and regulations.

(1) Except as provided in subsection (5) of this section, comprehensive plans and development regulations, and amendments thereto, adopted under this chapter are presumed valid upon adoption.

(2) Except as otherwise provided in subsection (4) of this section, the burden is on the petitioner to demonstrate that any action taken by a state agency, county, or city under this chapter is not in compliance with the requirements of this chapter.

(3) In any petition under this chapter, the board, after full consideration of the petition, shall determine whether there is compliance with the requirements of this chapter. In making its determination, the board shall consider the criteria adopted by the department under RCW 36.70A.190(4). The board shall find compliance unless it determines that the action by the state agency, county, or city is clearly erroneous in view of the entire record before the board and in light of the goals and requirements of this chapter.

(4) A county or city subject to a determination of invalidity made under RCW 36.70A.300 or 36.70A.302 has the burden of demonstrating that the ordinance or resolution it has enacted in response to the determination of invalidity will no longer substantially interfere with the fulfillment of the goals of this chapter under the standard in RCW 36.70A.302(1).

(5) The shoreline element of a comprehensive plan and the applicable development regulations adopted by a county or city shall take effect as provided in chapter 90.58 RCW.

[1997 c 429 § 20; 1995 c 347 § 111; 1991 sp.s. c 32 § 13.]

Notes:

Prospective application -- 1997 c 429 §§ 1-21: See note following RCW 36.70A.3201.

Severability -- 1997 c 429: See note following RCW 36.70A.3201.

Finding -- Severability -- Part headings and table of contents not law -- 1995 c 347: See notes following RCW 36.70A.470.

36.70A.3201

Growth management hearings board — Legislative intent and finding.

The legislature intends that the board applies a more deferential standard of review to actions of counties and cities than the preponderance of the evidence standard provided for under existing law. In recognition of the broad range of discretion that may be exercised by counties and cities consistent with the requirements of this chapter, the legislature intends for the board to grant deference to counties and cities in how they plan for growth, consistent with the requirements and goals of this chapter. Local comprehensive plans and development regulations require counties and cities to balance priorities and options for action in full consideration of local circumstances. The legislature finds that while this chapter requires local planning to take place within a framework of state goals and requirements, the ultimate burden and responsibility for planning, harmonizing the planning goals of this chapter, and implementing a county's or city's future rests with that community.

[2010 c 211 § 12; 1997 c 429 § 2.]

Notes:

Effective date -- Transfer of power, duties, and functions -- 2010 c 211: See notes following RCW 36.70A.250.

Prospective application -- 1997 c 429 §§ 1-21: "Except as otherwise specifically provided in RCW 36.70A.335, sections 1 through 21, chapter 429, Laws of 1997 are prospective in effect and shall not affect the validity of actions taken or decisions made before July 27, 1997." [1997 c 429 § 53.]

Severability -- 1997 c 429: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1997 c 429 § 54.]

36.70A.330

Noncompliance.

(1) After the time set for complying with the requirements of this chapter under RCW 36.70A.300(3)(b) has expired, or at an earlier time upon the motion of a county or city subject to a determination of invalidity under RCW 36.70A.300, the board shall set a hearing for the purpose of determining whether the state agency, county, or city is in compliance with the requirements of this chapter.

(2) The board shall conduct a hearing and issue a finding of compliance or noncompliance with the requirements of this chapter and with any compliance schedule established by the board in its final order. A person with standing to challenge the legislation enacted in response to the board's final order may participate in the hearing along with the petitioner and the state agency, county, or city. A hearing under this subsection shall be given the highest priority of business to be conducted by the board, and a finding shall be issued within forty-five days of the filing of the motion under subsection (1) of this section with the board. The board shall issue any order necessary to make adjustments to the compliance schedule and set additional hearings as provided in subsection (5) of this section.

(3) If the board after a compliance hearing finds that the state agency, county, or city is not in compliance, the board shall transmit its finding to the governor. The board may recommend to the governor that the sanctions authorized by this chapter be imposed. The board shall take into consideration the county's or city's efforts to meet its compliance schedule in making the decision to recommend sanctions to the governor.

(4) In a compliance hearing upon petition of a party, the board shall also reconsider its final order and decide, if no determination of invalidity has been made, whether one now should be made under RCW 36.70A.302.

(5) The board shall schedule additional hearings as appropriate pursuant to subsections (1) and (2) of this section.

[1997 c 429 § 21; 1995 c 347 § 112; 1991 sp.s. c 32 § 14.]

Notes:

Prospective application -- 1997 c 429 §§ 1-21: See note following RCW 36.70A.3201.

Severability -- 1997 c 429: See note following RCW 36.70A.3201.

Finding -- Severability -- Part headings and table of contents not law -- 1995 c 347: See notes following RCW 36.70A.470.

36.70A.335

Order of invalidity issued before July 27, 1997.

A county or city subject to an order of invalidity issued before July 27, 1997, by motion may request the board to review the order of invalidity in light of the section 14, chapter 429, Laws of 1997 amendments to RCW 36.70A.300, the section 21, chapter 429, Laws of 1997 amendments to RCW 36.70A.330, and RCW 36.70A.302. If a request is made, the board shall rescind or modify the order of invalidity as necessary to make it consistent with the section 14, chapter 429, Laws of 1997 amendments to RCW 36.70A.300, and to the section 21, chapter 429, Laws of 1997 amendments to RCW 36.70A.330, and RCW 36.70A.302.

[1997 c 429 § 22.]

Notes:

Prospective application -- 1997 c 429 §§ 1-21: See note following RCW 36.70A.3201.

Severability -- 1997 c 429: See note following RCW 36.70A.3201.

36.70A.340

Noncompliance and sanctions. (Effective until July 1, 2015.)

Upon receipt from the board of a finding that a state agency, county, or city is in noncompliance under RCW 36.70A.330, or as a result of failure to meet the requirements of RCW 36.70A.210, the governor may either:

(1) Notify and direct the director of the office of financial management to revise allotments in appropriation levels;

(2) Notify and direct the state treasurer to withhold the portion of revenues to which the county or city is entitled under one or more of the following: The motor vehicle fuel tax, as provided in chapter 82.36 RCW; the transportation improvement account, as provided in RCW 47.26.084; the rural arterial trust account, as provided in RCW 36.79.150; the sales and use tax, as provided in chapter 82.14 RCW; the liquor profit tax, as provided in RCW 66.08.190; and the liquor excise tax, as provided in RCW 82.08.170; or

(3) File a notice of noncompliance with the secretary of state and the county or city, which shall temporarily rescind the county or city's authority to collect the real estate excise tax under RCW 82.46.030 until the governor files a notice rescinding the notice of noncompliance.

[2011 c 120 § 2; 1991 sp.s. c 32 § 26.]

36.70A.340

Noncompliance and sanctions. (Effective July 1, 2015.)

Upon receipt from the board of a finding that a state agency, county, or city is in noncompliance under RCW 36.70A.330, or as a result of failure to meet the requirements of RCW 36.70A.210, the governor may either:

(1) Notify and direct the director of the office of financial management to revise allotments in appropriation levels;

(2) Notify and direct the state treasurer to withhold the portion of revenues to which the county or city is entitled under one or more of the following: The motor vehicle fuel tax, as provided in chapter 82.38 RCW; the transportation improvement account, as provided in RCW 47.26.084; the rural arterial trust account, as provided in RCW 36.79.150; the sales and use tax, as provided in chapter 82.14 RCW; the liquor profit tax, as provided in RCW 66.08.190; and the liquor excise tax, as provided in RCW 82.08.170; or

(3) File a notice of noncompliance with the secretary of state and the county or city, which temporarily rescinds the county or city's authority to collect the real estate excise tax under RCW 82.46.030 until the governor files a notice rescinding the notice of noncompliance.

[2013 c 225 § 604; 2011 c 120 § 2; 1991 sp.s. c 32 § 26.]

Notes:

Effective date -- 2013 c 225: See note following RCW 82.38.010.

36.70A.345

Sanctions.

The governor may impose a sanction or sanctions specified under RCW 36.70A.340 on: (1) A county or city that fails to designate critical areas, agricultural lands, forest lands, or mineral resource lands under RCW 36.70A.170 by the date such action was required to have been taken; (2) a county or city that fails to adopt development regulations under RCW 36.70A.060 protecting critical areas or conserving agricultural lands, forest lands, or mineral resource lands by the date such action was required to have been taken; (3) a county that fails to designate urban growth areas under RCW 36.70A.110 by the date such action was required to have been taken; and (4) a county or city that fails to adopt its comprehensive plan or development regulations when such actions are required to be taken.

Imposition of a sanction or sanctions under this section shall be preceded by written findings by the governor, that either the county or city is not proceeding in good faith to meet the requirements of the act; or that the county or city has unreasonably delayed taking the required action. The governor shall consult with and communicate his or her findings to the growth management hearings board prior to imposing the sanction or sanctions. For those counties or cities that are not required to plan or have not opted in, the governor in imposing sanctions shall consider the size of the jurisdiction relative to the requirements of this chapter and the degree of technical and financial assistance provided.

[2010 c 211 § 13; 1994 c 249 § 33; 1993 sp.s. c 6 § 5.]

Notes:

Effective date -- Transfer of power, duties, and functions -- 2010 c 211: See notes following RCW 36.70A.250.

Severability -- Application -- 1994 c 249: See notes following RCW 34.05.310.

Effective date -- 1993 sp.s. c 6: See note following RCW 36.70A.040.

36.70A.350

New fully contained communities.

A county required or choosing to plan under RCW 36.70A.040 may establish a process as part of its urban growth areas, that are designated under RCW 36.70A.110, for reviewing proposals to authorize new fully contained communities located outside of the initially designated urban growth areas.

(1) A new fully contained community may be approved in a county planning under this chapter if criteria including but not limited to the following are met:

(a) New infrastructure is provided for and impact fees are established consistent with the requirements of RCW 82.02.050;

(b) Transit-oriented site planning and traffic demand management programs are implemented;

(c) Buffers are provided between the new fully contained communities and adjacent urban development;

(d) A mix of uses is provided to offer jobs, housing, and services to the residents of the new community;

(e) Affordable housing is provided within the new community for a broad range of income levels;

(f) Environmental protection has been addressed and provided for;

(g) Development regulations are established to ensure urban growth will not occur in adjacent nonurban areas;

(h) Provision is made to mitigate impacts on designated agricultural lands, forest lands, and mineral resource lands;

(i) The plan for the new fully contained community is consistent with the development regulations established for the protection of critical areas by the county pursuant to RCW 36.70A.170.

(2) New fully contained communities may be approved outside established urban growth areas only if a county reserves a portion of the twenty-year population projection and offsets the urban growth area accordingly for allocation to new fully contained communities that meet the requirements of this chapter. Any county electing to establish a new community reserve shall do so no more often than once every five years as a part of the designation or review of urban growth areas required by this chapter. The new community reserve shall be allocated on a project-by-project basis, only after specific project approval procedures have been adopted pursuant to this chapter as a development regulation. When a new community reserve is established, urban growth areas designated pursuant to this chapter shall accommodate the unreserved portion of the twenty-year population projection.

Final approval of an application for a new fully contained community shall be considered an adopted amendment to the comprehensive plan prepared pursuant to RCW 36.70A.070 designating the new fully contained community as an urban growth area.

[1991 sp.s. c 32 § 16.]

36.70A.360

Master planned resorts.

(1) Counties that are required or choose to plan under RCW 36.70A.040 may permit master planned resorts which may constitute urban growth outside of urban growth areas as limited by this section. A master planned resort means a self-contained and fully integrated planned unit development, in a setting of significant natural amenities, with primary focus on destination resort facilities consisting of short-term visitor accommodations associated with a range of developed on-site indoor or outdoor recreational facilities.

(2) Capital facilities, utilities, and services, including those related to sewer, water, storm water, security, fire suppression, and emergency medical, provided on-site shall be limited to meeting the needs of the master planned resort. Such facilities, utilities, and services may be provided to a master planned resort by outside service providers, including municipalities and special purpose districts, provided that all costs associated with service extensions and capacity increases directly attributable to the master planned resort are fully borne by the resort. A master planned resort and service providers may enter into agreements for shared capital facilities and utilities, provided that such facilities and utilities serve only the master planned resort or urban growth areas.

Nothing in this subsection may be construed as: Establishing an order of priority for processing applications for water right permits, for granting such permits, or for issuing certificates of water right; altering or authorizing in any manner the alteration of the place of use for a water right; or affecting or impairing in any manner whatsoever an existing water right.

All waters or the use of waters shall be regulated and controlled as provided in chapters 90.03 and 90.44 RCW and not otherwise.

(3) A master planned resort may include other residential uses within its boundaries, but only if the residential uses are integrated into and support the on-site recreational nature of the resort.

(4) A master planned resort may be authorized by a county only if:

(a) The comprehensive plan specifically identifies policies to guide the development of master planned resorts;

(b) The comprehensive plan and development regulations include restrictions that preclude new urban or suburban land uses in the vicinity of the master planned resort, except in areas otherwise designated for urban growth under RCW 36.70A.110;

(c) The county includes a finding as a part of the approval process that the land is better suited, and has more long-term importance, for the master planned resort than for the commercial harvesting of timber or agricultural production, if located on land that otherwise would be designated as forest land or agricultural land under RCW 36.70A.170;

(d) The county ensures that the resort plan is consistent with the development regulations established for critical areas; and

(e) On-site and off-site infrastructure and service impacts are fully considered and mitigated.

[1998 c 112 § 2; 1991 sp.s. c 32 § 17.]

Notes:

Intent -- 1998 c 112: "The primary intent of this act is to give effect to recommendations by the 1994 department of community, trade, and economic development's master planned resort task force by clarifying that master planned resorts may make use of capital facilities, utilities, and services provided by outside service providers, and may enter into agreements for shared facilities with such providers, when all costs directly attributable to the resort, including capacity increases, are fully borne by the resort." [1998 c 112 § 1.]

36.70A.362

Master planned resorts — Existing resort may be included.

Counties that are required or choose to plan under RCW 36.70A.040 may include existing resorts as master planned resorts which may constitute urban growth outside of urban growth areas as limited by this section. An existing resort means a resort in existence on July 1, 1990, and developed, in whole or in part, as a significantly self-contained and integrated development that includes short-term visitor accommodations associated with a range of indoor and outdoor recreational facilities within the property boundaries in a setting of significant natural amenities. An existing resort may include other permanent residential uses, conference facilities, and commercial activities supporting the resort, but only if these other uses are integrated into and consistent with the on-site recreational nature of the resort.

An existing resort may be authorized by a county only if:

(1) The comprehensive plan specifically identifies policies to guide the development of the existing resort;

(2) The comprehensive plan and development regulations include restrictions that preclude new urban or suburban land uses in the vicinity of the existing resort, except in areas otherwise designated for urban growth under RCW 36.70A.110 and *36.70A.360(1);

(3) The county includes a finding as a part of the approval process that the land is better suited, and has more long-term importance, for the existing resort than for the commercial harvesting of timber or agricultural production, if located on land that otherwise would be designated as forest land or agricultural land under RCW 36.70A.170;

(4) The county finds that the resort plan is consistent with the development regulations established for critical areas; and

(5) On-site and off-site infrastructure impacts are fully considered and mitigated.

A county may allocate a portion of its twenty-year population projection, prepared by the office of financial management, to the master planned resort corresponding to the projected number of permanent residents within the master planned resort.

[1997 c 382 § 1.]

Notes:

*Reviser's note: RCW 36.70A.360 was amended by 1998 c 112 § 2, changing subsection (1) to subsection (4) (a).

36.70A.365

Major industrial developments.

A county required or choosing to plan under RCW 36.70A.040 may establish, in consultation with cities consistent with provisions of RCW 36.70A.210, a process for reviewing and approving proposals to authorize siting of specific major industrial developments outside urban growth areas.

(1) "Major industrial development" means a master planned location for a specific manufacturing, industrial, or commercial business that: (a) Requires a parcel of land so large that no suitable parcels are available within an urban growth area; or (b) is a natural resource-based industry requiring a location near agricultural land, forest land, or mineral resource land upon which it is dependent. The major industrial development shall not be for the purpose of retail commercial development or multitenant office parks.

(2) A major industrial development may be approved outside an urban growth area in a county planning under this chapter if criteria including, but not limited to the following, are met:

(a) New infrastructure is provided for and/or applicable impact fees are paid;

(b) Transit-oriented site planning and traffic demand management programs are implemented;

(c) Buffers are provided between the major industrial development and adjacent nonurban areas;

(d) Environmental protection including air and water quality has been addressed and provided for;

(e) Development regulations are established to ensure that urban growth will not occur in adjacent nonurban areas;

(f) Provision is made to mitigate adverse impacts on designated agricultural lands, forest lands, and mineral resource lands;

(g) The plan for the major industrial development is consistent with the county's development regulations established for protection of critical areas; and

(h) An inventory of developable land has been conducted and the county has determined and entered findings that land suitable to site the major industrial development is unavailable within the urban growth area. Priority shall be given to applications for sites that are adjacent to or in close proximity to the urban growth area.

(3) Final approval of an application for a major industrial development shall be considered an adopted amendment to the comprehensive plan adopted pursuant to RCW 36.70A.070 designating the major industrial development site on the land use map as an urban growth area. Final approval of an application for a major industrial development shall not be considered an amendment to the comprehensive plan for the purposes of RCW 36.70A.130(2) and may be considered at any time.

[1995 c 190 § 1.]

36.70A.367

Major industrial developments — Master planned locations.

(1) In addition to the major industrial development allowed under RCW 36.70A.365, a county planning under RCW 36.70A.040 that meets the criteria in subsection (5) of this section may establish, in consultation with cities consistent with provisions of RCW 36.70A.210, a process for designating a bank of no more than two master planned locations for major industrial activity outside urban growth areas.

(2) A master planned location for major industrial developments may be approved through a two-step process: Designation of an industrial land bank area in the comprehensive plan; and subsequent approval of specific major industrial developments through a local master plan process described under subsection (3) of this section.

(a) The comprehensive plan must identify locations suited to major industrial development due to proximity to transportation or resource assets. The plan must identify the maximum size of the industrial land bank area and any limitations on major industrial developments based on local limiting factors, but does not need to specify a particular parcel or parcels of property or identify any specific use or user except as limited by this section. In selecting locations for the industrial land bank area, priority must be given to locations that are adjacent to, or in close proximity to, an urban growth area.

(b) The environmental review for amendment of the comprehensive plan must be at the programmatic level and, in addition to a threshold determination, must include:

(i) An inventory of developable land as provided in RCW 36.70A.365; and

(ii) An analysis of the availability of alternative sites within urban growth areas and the long-term annexation feasibility of sites outside of urban growth areas.

(c) Final approval of an industrial land bank area under this section must be by amendment to the comprehensive plan adopted under RCW 36.70A.070, and the amendment is exempt from the limitation of RCW 36.70A.130(2) and may be considered at any time. Approval of a specific major industrial development within the industrial land bank area requires no further amendment of the comprehensive plan.

(3) In concert with the designation of an industrial land bank area, a county shall also adopt development regulations for review and approval of specific major industrial developments through a master plan process. The regulations governing the master plan process shall ensure, at a minimum, that:

(a) Urban growth will not occur in adjacent nonurban areas;

(b) Development is consistent with the county's development regulations adopted for protection of critical areas;

(c) Required infrastructure is identified and provided concurrent with development. Such infrastructure, however, may be phased in with development;

(d) Transit-oriented site planning and demand management programs are specifically addressed as part of the master plan approval;

(e) Provision is made for addressing environmental protection, including air and water quality, as part of the master plan approval;

(f) The master plan approval includes a requirement that interlocal agreements between the county and service providers, including cities and special purpose districts providing facilities or services to the approved master plan, be in place at the time of master plan approval;

(g) A major industrial development is used primarily by industrial and manufacturing businesses, and that the gross floor area of all commercial and service buildings or facilities locating within the major industrial development does not exceed ten percent of the total gross floor area of buildings or facilities in the development. The intent of this provision for commercial or service use is to meet the needs of employees, clients, customers, vendors, and others having business at the industrial site, to attract and retain a quality workforce, and to further other public objectives, such as trip reduction. These uses may not be promoted to attract additional clientele from the surrounding area. Commercial and service businesses must be established concurrently with or subsequent to the industrial or manufacturing businesses;

(h) New infrastructure is provided for and/or applicable impact fees are paid to assure that adequate facilities are provided concurrently with the development. Infrastructure may be achieved in phases as development proceeds;

(i) Buffers are provided between the major industrial development and adjacent rural areas;

(j) Provision is made to mitigate adverse impacts on designated agricultural lands, forest lands, and mineral resource lands; and

(k) An open record public hearing is held before either the planning commission or hearing examiner with notice published at least thirty days before the hearing date and mailed to all property owners within one mile of the site.

(4) For the purposes of this section:

(a) "Major industrial development" means a master planned location suitable for manufacturing or industrial businesses that: (i) Requires a parcel of land so large that no suitable parcels are available within an urban growth area; (ii) is a natural resource-based industry requiring a location near agricultural land, forest land, or mineral resource land upon which it is dependent; or (iii) requires a location with characteristics such as proximity to transportation facilities or related industries such that there is no suitable location in an urban growth area. The major industrial development may not be for the purpose of retail commercial development or multitenant office parks.

(b) "Industrial land bank" means up to two master planned locations, each consisting of a parcel or parcels of

contiguous land, sufficiently large so as not to be readily available within the urban growth area of a city, or otherwise meeting the criteria contained in (a) of this subsection, suitable for manufacturing, industrial, or commercial businesses and designated by the county through the comprehensive planning process specifically for major industrial use.

(5) This section and the termination provisions specified in subsection (6) of this section apply to a county that at the time the process is established under subsection (1) of this section:

(a) Has a population greater than two hundred fifty thousand and is part of a metropolitan area that includes a city in another state with a population greater than two hundred fifty thousand;

(b) Has a population greater than one hundred forty thousand and is adjacent to another country;

(c) Has a population greater than forty thousand but less than seventy-five thousand and has an average level of unemployment for the preceding three years that exceeds the average state unemployment for those years by twenty percent; and

(i) Is bordered by the Pacific Ocean;

(ii) Is located in the Interstate 5 or Interstate 90 corridor; or

(iii) Is bordered by Hood Canal;

(d) Is east of the Cascade divide; and

(i) Borders another state to the south; or

(ii) Is located wholly south of Interstate 90 and borders the Columbia river to the east;

(e) Has an average population density of less than one hundred persons per square mile as determined by the office of financial management, and is bordered by the Pacific Ocean and by Hood Canal; or

(f) Meets all of the following criteria:

(i) Has a population greater than forty thousand but fewer than eighty thousand;

(ii) Has an average level of unemployment for the preceding three years that exceeds the average state unemployment for those years by twenty percent; and

(iii) Is located in the Interstate 5 or Interstate 90 corridor.

(6) In order to identify and approve locations for industrial land banks, the county shall take action to designate one or more industrial land banks and adopt conforming regulations as provided by subsection (2) of this section on or before the last date to complete that county's next periodic review under RCW 36.70A.130(4) that occurs prior to December 31, 2016. The authority to take action to designate a land bank area in the comprehensive plan expires if not acted upon by the county within the time frame provided in this section. Once a land bank area has been identified in the county's comprehensive plan, the authority of the county to process a master plan or site projects within an approved master plan does not expire.

(7) Any county seeking to designate an industrial land bank under this section must:

(a) Provide countywide notice, in conformity with RCW 36.70A.035, of the intent to designate an industrial land bank. Notice must be published in a newspaper or newspapers of general circulation reasonably likely to reach subscribers in all geographic areas of the county. Notice must be provided not less than thirty days prior to commencement of consideration by the county legislative body; and

(b) Make a written determination of the criteria and rationale used by the legislative body as the basis for siting an industrial land bank under this chapter.

(8) Any location included in an industrial land bank pursuant to section 2, chapter 289, Laws of 1998, section 1, chapter 402, Laws of 1997, and section 2, chapter 167, Laws of 1996 shall remain available for major industrial development according to this section as long as the requirements of this section continue to be satisfied.

[2014 c 149 § 1; 2007 c 433 § 1; 2004 c 208 § 1; 2003 c 88 § 1; 2002 c 306 § 1; 2001 c 326 § 1; 1998 c 289 § 2; 1997 c 402 § 1; 1996 c 167 § 2.]

Notes:

Findings -- Purpose -- 1998 c 289: "The legislature finds that to fulfill the economic development goal of this chapter, it is beneficial to expand the limited authorization for pilot projects for identifying locations for major industrial activity in advance of specific proposals by an applicant. The legislature further finds that land bank availability may provide economically disadvantaged counties the opportunity to attract new industrial activity by offering expeditious siting and therefore promote a community's economic health and vitality. The purpose of this act is to authorize and evaluate additional pilot projects for major industrial activity in economically disadvantaged counties." [1998 c 289 § 1.]

Findings -- Purpose -- 1996 c 167: "In 1995 the legislature addressed the demand for siting of major industrial facilities by passage of Engrossed Senate Bill No. 5019, implementing a process for siting such activities outside urban growth areas. The legislature recognizes that the 1995 act requires consideration of numerous factors necessary to ensure that the community can reasonably accommodate a major industrial development outside an urban growth area.

The legislature finds that the existing case-by-case procedure for evaluating and approving such a site under the 1995 act may operate to a community's economic disadvantage when a firm, for business reasons, must make a business location decision expeditiously. The legislature therefore finds that it would be useful to authorize, on a limited basis, and evaluate a process for identifying locations for major industrial activity in advance of specific proposals by an applicant.

It is the purpose of this act (1) to authorize a pilot project under which a bank of major industrial development locations outside urban growth areas is created for use in expeditiously siting such a development; (2) to evaluate the impact of this process on the county's compliance with chapter 36.70A RCW; and (3) to encourage consolidation and planning, and environmental review procedures under chapter 36.70B RCW." [1996 c 167 § 1.]

Effective date -- 1996 c 167: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [March 28, 1996]." [1996 c 167 § 3.]

36.70A.368

Major industrial developments — Master planned locations — Reclaimed surface coal mine sites.

(1) In addition to the major industrial development allowed under RCW 36.70A.365 and 36.70A.367, a county planning under RCW 36.70A.040 that meets the criteria in subsection (2) of this section may establish, in consultation with cities consistent with RCW 36.70A.210, a process for designating a master planned location for major industrial activity outside urban growth areas on lands formerly used or designated for surface coal mining and supporting uses. Once a master planned location is designated, it shall be considered an urban growth area retained for purposes of promoting major industrial activity.

(2) This section applies to a county that, at the time the process is established in subsection (1) of this section, had a surface coal mining operation in excess of three thousand acres that ceased operation after July 1, 2006, and that is located within fifteen miles of the Interstate 5 corridor.

(3) Designation of a master planned location for major industrial activities is an amendment to the comprehensive plan adopted under RCW 36.70A.070, except that RCW 36.70A.130(2) does not apply so that designation of master planned locations may be considered at any time. The process established under subsection (1) of this section for designating a master planned location for one or more major industrial activities must include, but is not limited to, the following comprehensive plan policy criteria:

(a) The master planned location must be located on lands: Formerly used or designated for surface coal mining and supporting uses; that consist of an aggregation of land of one thousand or more acres, which is not required to be contiguous; and that are suitable for manufacturing, industrial, or commercial businesses;

(b) New infrastructure is provided for; and

(c) Environmental review of a proposed designation of a master planned location must be at the programmatic level, as long as the environmental review of a proposed designation that is being reviewed concurrent with a proposed major industrial activity is at the project level.

(4) Approval of a specific major industrial activity proposed for a master planned location designated under this section is through a local master plan process and does not require further comprehensive plan amendment. The process for reviewing and approving a specific major industrial activity proposed for a master planned location designated under this section must include the following criteria in adopted development regulations:

(a) The site consists of one hundred or more acres of land formerly used or designated for surface coal mining and supporting uses that has been or will be reclaimed as land suitable for industrial development;

(b) Urban growth will not occur in adjacent nonurban areas;

(c) Environmental review of a specific proposed major industrial activity must be conducted as required in chapter 43.21C RCW. Environmental review may be processed as a planned action, as long as it meets the requirements of *RCW 43.21C.031; and

(d) Commercial development within a master planned location must be directly related to manufacturing or industrial uses. Commercial uses shall not exceed ten percent of the total gross floor area of buildings or facilities in the development.

(5) Final approval of the designation of a master planned location designated under subsection (3) of this section is subject to appeal under this chapter. Approval of a specific major industrial activity under subsection (4) of this section is subject to appeal under chapter 36.70C RCW.

(6) RCW 36.70A.365 and 36.70A.367 do not apply to the designation of master planned locations or the review and approval of specific major industrial activities under this section.

[2007 c 194 § 1.]

Notes:

*Reviser's note: The requirements for a planned action were moved by 2012 1st sp.s. c 1 from RCW 43.21C.031 to RCW 43.21C.440.

36.70A.370

Protection of private property.

(1) The state attorney general shall establish by October 1, 1991, an orderly, consistent process, including a checklist if appropriate, that better enables state agencies and local governments to evaluate proposed regulatory or administrative actions to assure that such actions do not result in an unconstitutional taking of private property. It is not the purpose of this section to expand or reduce the scope of private property protections provided in the state and federal Constitutions. The attorney general shall review and update the process at least on an annual basis to maintain consistency with changes in case law.

(2) Local governments that are required or choose to plan under RCW 36.70A.040 and state agencies shall utilize the process established by subsection (1) of this section to assure that proposed regulatory or administrative actions do not result in an unconstitutional taking of private property.

(3) The attorney general, in consultation with the Washington state bar association, shall develop a continuing education course to implement this section.

(4) The process used by government agencies shall be protected by attorney client privilege. Nothing in this section grants a private party the right to seek judicial relief requiring compliance with the provisions of this section.

[1991 sp.s. c 32 § 18.]

36.70A.380

Extension of designation date.

The department may extend the date by which a county or city is required to designate agricultural lands, forest lands, mineral resource lands, and critical areas under RCW 36.70A.170, or the date by which a county or city is required to protect such lands and critical areas under RCW 36.70A.060, if the county or city demonstrates that it is proceeding in an orderly fashion, and is making a good faith effort, to meet these requirements. An extension may be for up to an additional one hundred eighty days. The length of an extension shall be based on the difficulty of the effort to conform with these requirements.

[1991 sp.s. c 32 § 39.]

36.70A.385

Environmental planning pilot projects.

(1) The legislature intends to determine whether the environmental review process mandated under chapter 43.21C RCW may be enhanced and simplified, and coordination improved, when applied to comprehensive plans mandated by this chapter. The department shall undertake pilot projects on environmental review to determine if the review process can be improved by fostering more coordination and eliminating duplicative environmental analysis which is made to assist decision makers approving comprehensive plans pursuant to this chapter. Such pilot projects should be designed and scoped to consider cumulative impacts resulting from plan decisions, plan impacts on environmental quality, impacts on adjacent jurisdictions, and similar factors in sufficient depth to simplify the analysis of subsequent specific projects being carried out pursuant to the approved plan.

(2) The legislature hereby authorizes the department to establish, in cooperation with business, industry, cities, counties, and other interested parties, at least two but not more than four pilot projects, one of which shall be with a county, on enhanced draft and final nonproject environmental analysis of comprehensive plans prepared pursuant to this chapter, for the purposes outlined in subsection (1) of this section. The department may select appropriate geographic subareas within a comprehensive plan if that will best serve the purposes of this section and meet the requirements of chapter 43.21C RCW.

(3) An enhanced draft and final nonproject environmental analysis prepared pursuant to this section shall follow the rules adopted pursuant to chapter 43.21C RCW.

(4) Not later than December 31, 1993, the department shall evaluate the overall effectiveness of the pilot projects under this section regarding preparing enhanced nonproject environmental analysis for the approval process of comprehensive plans and shall:

(a) Provide an interim report of its findings to the legislature with such recommendations as may be appropriate, including the need, if any, for further legislation;

(b) Consider adoption of any further rules or guidelines as may be appropriate to assist counties and cities in meeting requirements of chapter 43.21C RCW when considering comprehensive plans; and

(c) Prepare and circulate to counties and cities such instructional manuals or other information derived from the pilot projects as will assist all counties and cities in meeting the requirements and objectives of chapter 43.21C RCW in the most expeditious and efficient manner in the process of considering comprehensive plans pursuant to this chapter.

[1998 c 245 § 30; 1995 c 399 § 43; 1991 sp.s. c 32 § 20.]

36.70A.390

Moratoria, interim zoning controls — Public hearing — Limitation on length — Exceptions.

A county or city governing body that adopts a moratorium, interim zoning map, interim zoning ordinance, or interim official control without holding a public hearing on the proposed moratorium, interim zoning map, interim zoning ordinance, or interim official control, shall hold a public hearing on the adopted moratorium, interim zoning map, interim zoning ordinance, or interim official control within at least sixty days of its adoption, whether or not the governing body received a recommendation on the matter from the planning commission or department. If the governing body does not adopt findings of fact justifying its action before this hearing, then the governing body shall do so immediately after this public hearing. A moratorium, interim zoning map, interim zoning ordinance, or interim official control adopted under this

section may be effective for not longer than six months, but may be effective for up to one year if a work plan is developed for related studies providing for such a longer period. A moratorium, interim zoning map, interim zoning ordinance, or interim official control may be renewed for one or more six-month periods if a subsequent public hearing is held and findings of fact are made prior to each renewal.

This section does not apply to the designation of critical areas, agricultural lands, forest lands, and mineral resource lands, under RCW 36.70A.170, and the conservation of these lands and protection of these areas under RCW 36.70A.060, prior to such actions being taken in a comprehensive plan adopted under RCW 36.70A.070 and implementing development regulations adopted under RCW 36.70A.120, if a public hearing is held on such proposed actions.

[1992 c 207 § 6.]

36.70A.400

Accessory apartments.

Any local government, as defined in RCW 43.63A.215, that is planning under this chapter shall comply with RCW 43.63A.215(3).

[1993 c 478 § 11.]

36.70A.410

Treatment of residential structures occupied by persons with handicaps.

No county or city that plans or elects to plan under this chapter may enact or maintain an ordinance, development regulation, zoning regulation or official control, policy, or administrative practice which treats a residential structure occupied by persons with handicaps differently than a similar residential structure occupied by a family or other unrelated individuals. As used in this section, "handicaps" are as defined in the federal fair housing amendments act of 1988 (42 U.S.C. Sec. 3602).

[1993 c 478 § 23.]

36.70A.420

Transportation projects — Findings — Intent.

The legislature recognizes that there are major transportation projects that affect multiple jurisdictions as to economic development, fiscal influence, environmental consequences, land use implications, and mobility of people and goods. The legislature further recognizes that affected jurisdictions have important interests that must be addressed, and that these jurisdictions' present environmental planning and permitting authority may result in multiple local permits and other requirements being specified for the projects.

The legislature finds that the present permitting system may result in segmented and sequential decisions by local governments that do not optimally serve all the parties with an interest in the decisions. The present system may also make more difficult achieving the consistency among plans and actions that is an important aspect of this chapter.

It is the intent of the legislature to provide for more efficiency and equity in the decisions of local governments regarding major transportation projects by encouraging coordination or consolidation of the processes for reviewing environmental planning and permitting requirements for those projects. The legislature intends that local governments coordinate their regulatory decisions by considering together the range of local, state, and federal requirements for major transportation projects. Nothing in RCW 36.70A.420 or 36.70A.430 alters the authority of cities or counties under any other planning or permitting statute.

[1994 c 258 § 1.]

Notes:

Captions not law -- 1994 c 258: "Section captions used in this act constitute no part of the law." [1994 c 258 § 6.]

36.70A.430

Transportation projects — Collaborative review process.

For counties engaged in planning under this chapter, there shall be established by December 31, 1994, a collaborative process to review and coordinate state and local permits for all transportation projects that cross more than one city or county boundary. This process shall at a minimum, establish a mechanism among affected cities and counties to designate a permit coordinating agency to facilitate multijurisdictional review and approval of such transportation projects.

[1994 c 258 § 2.]

Notes:

Captions not law -- 1994 c 258: See note following RCW 36.70A.420.

36.70A.450

Family day-care provider's home facility — County or city may not prohibit in residential or commercial area — Conditions.

(1) Except as provided in subsections (2) and (3) of this section, no county or city may enact, enforce, or maintain an ordinance, development regulation, zoning regulation, or official control, policy, or administrative practice that prohibits the use of a residential dwelling, located in an area zoned for residential or commercial use, as a family day-care provider's home facility.

(2) A county or city may require that the facility: (a) Comply with all building, fire, safety, health code, and business licensing requirements; (b) conform to lot size, building size, setbacks, and lot coverage standards applicable to the zoning district except if the structure is a legal nonconforming structure; (c) is certified by the department of early learning licensor as providing a safe passenger loading area; (d) include signage, if any, that conforms to applicable regulations; and (e) limit hours of operations to facilitate neighborhood compatibility, while also providing appropriate opportunity for persons who use family day-care and who work a nonstandard work shift.

(3) A county or city may also require that the family day-care provider, before state licensing, require proof of written notification by the provider that the immediately adjoining property owners have been informed of the intent to locate and maintain such a facility. If a dispute arises between neighbors and the family day-care provider over licensing requirements, the licensor may provide a forum to resolve the dispute.

(4) Nothing in this section shall be construed to prohibit a county or city from imposing zoning conditions on the establishment and maintenance of a family day-care provider's home in an area zoned for residential or commercial use, so long as such conditions are no more restrictive than conditions imposed on other residential dwellings in the same zone and the establishment of such facilities is not precluded. As used in this section, "family day-care provider" is as defined in RCW 43.215.010.

[2007 c 17 § 13; 2003 c 286 § 5; 1995 c 49 § 3; 1994 c 273 § 17.]

36.70A.460

Watershed restoration projects — Permit processing — Fish habitat enhancement project.

(1) A permit required under this chapter for a watershed restoration project as defined in RCW 89.08.460 shall be processed in compliance with RCW 89.08.450 through 89.08.510.

(2) A fish habitat enhancement project meeting the criteria of RCW 77.55.181 shall be reviewed and approved according to the provisions of RCW 77.55.181.

[2014 c 120 § 15; 2003 c 39 § 21; 1998 c 249 § 11; 1995 c 378 § 11.]

Notes:

Findings -- Purpose -- Report -- Effective date -- 1998 c 249: See notes following RCW 77.55.181.

36.70A.470

Project review — Amendment suggestion procedure — Definitions.

(1) Project review, which shall be conducted pursuant to the provisions of chapter 36.70B RCW, shall be used to make individual project decisions, not land use planning decisions. If, during project review, a county or city planning under RCW 36.70A.040 identifies deficiencies in plans or regulations:

- (a) The permitting process shall not be used as a comprehensive planning process;
- (b) Project review shall continue; and
- (c) The identified deficiencies shall be docketed for possible future plan or development regulation amendments.

(2) Each county and city planning under RCW 36.70A.040 shall include in its development regulations a procedure for any interested person, including applicants, citizens, hearing examiners, and staff of other agencies, to suggest plan or development regulation amendments. The suggested amendments shall be docketed and considered on at least an annual basis, consistent with the provisions of RCW 36.70A.130.

(3) For purposes of this section, a deficiency in a comprehensive plan or development regulation refers to the absence of required or potentially desirable contents of a comprehensive plan or development regulation. It does not refer to whether a development regulation addresses a project's probable specific adverse environmental impacts which the permitting agency could mitigate in the normal project review process.

(4) For purposes of this section, docketing refers to compiling and maintaining a list of suggested changes to the comprehensive plan or development regulations in a manner that will ensure such suggested changes will be considered by the county or city and will be available for review by the public.

[1995 c 347 § 102.]

Notes:

Findings -- Intent -- 1995 c 347 § 102: "The legislature finds that during project review, a county or city planning under RCW 36.70A.040 is likely to discover the need to make various improvements in comprehensive plans and development regulations. There is no current requirement or process for applicants, citizens, or agency staff to ensure that these improvements are considered in the plan review process. The legislature also finds that in the past environmental review and permitting of proposed projects have been used to reopen and make land use planning decisions that should have been made through the comprehensive planning process, in part because agency staff and hearing examiners have not been able to ensure consideration of all issues in the local planning process. The legislature further finds that, while plans and regulations should be improved and refined over time, it is unfair to penalize applicants that have submitted permit applications that meet current requirements. It is the intent of the legislature in enacting RCW 36.70A.470 to establish a means by which cities and counties will docket suggested plan or development regulation amendments and ensure their consideration during the planning process." [1995 c 347 § 101.]

Finding -- 1995 c 347: "The legislature recognizes by this act that the growth management act is a fundamental building block of regulatory reform. The state and local governments have invested considerable resources in an act that should serve as the integrating framework for all other land-use related laws. The growth management act provides the means to effectively combine certainty for development decisions, reasonable environmental protection, long-range planning for cost-effective infrastructure, and orderly growth and development." [1995 c 347 § 1.]

Severability -- 1995 c 347: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1995 c 347 § 901.]

Part headings and table of contents not law -- 1995 c 347: "Part headings and the table of contents as used in this act do not constitute any part of the law." [1995 c 347 § 902.]

36.70A.480

Shorelines of the state.

(1) For shorelines of the state, the goals and policies of the shoreline management act as set forth in RCW 90.58.020 are added as one of the goals of this chapter as set forth in RCW 36.70A.020 without creating an order of priority among the fourteen goals. The goals and policies of a shoreline master program for a county or city approved under chapter 90.58 RCW shall be considered an element of the county or city's comprehensive plan. All other portions of the shoreline master program for a county or city adopted under chapter 90.58 RCW, including use regulations, shall be considered a part of the county or city's development regulations.

(2) The shoreline master program shall be adopted pursuant to the procedures of chapter 90.58 RCW rather than the goals, policies, and procedures set forth in this chapter for the adoption of a comprehensive plan or development regulations.

(3)(a) The policies, goals, and provisions of chapter 90.58 RCW and applicable guidelines shall be the sole basis for determining compliance of a shoreline master program with this chapter except as the shoreline master program is required to comply with the internal consistency provisions of RCW 36.70A.070, 36.70A.040(4), 35.63.125, and 35A.63.105.

(b) Except as otherwise provided in (c) of this subsection, development regulations adopted under this chapter to protect critical areas within shorelines of the state apply within shorelines of the state until the department of ecology approves one of the following: A comprehensive master program update, as defined in RCW 90.58.030; a segment of a master program relating to critical areas, as provided in RCW 90.58.090; or a new or amended master program approved by the department of ecology on or after March 1, 2002, as provided in RCW 90.58.080. The adoption or update of development regulations to protect critical areas under this chapter prior to department of ecology approval of a master program update as provided in this subsection is not a comprehensive or segment update to the master program.

(c)(i) Until the department of ecology approves a master program or segment of a master program as provided in (b) of this subsection, a use or structure legally located within shorelines of the state that was established or vested on or before the effective date of the local government's development regulations to protect critical areas may continue as a conforming use and may be redeveloped or modified if: (A) The redevelopment or modification is consistent with the local government's master program; and (B) the local government determines that the proposed redevelopment or modification will result in no net loss of shoreline ecological functions. The local government may waive this requirement if the redevelopment or modification is consistent with the master program and the local government's development regulations to protect critical areas.

(ii) For purposes of this subsection (3)(c), an agricultural activity that does not expand the area being used for the agricultural activity is not a redevelopment or modification. "Agricultural activity," as used in this subsection (3)(c), has the same meaning as defined in RCW 90.58.065.

(d) Upon department of ecology approval of a shoreline master program or critical area segment of a shoreline master program, critical areas within shorelines of the state are protected under chapter 90.58 RCW and are not subject to the procedural and substantive requirements of this chapter, except as provided in subsection (6) of this section. Nothing in chapter 321, Laws of 2003 or chapter 107, Laws of 2010 is intended to affect whether or to what extent agricultural activities, as defined in RCW 90.58.065, are subject to chapter 36.70A RCW.

(e) The provisions of RCW 36.70A.172 shall not apply to the adoption or subsequent amendment of a local government's shoreline master program and shall not be used to determine compliance of a local government's shoreline master program with chapter 90.58 RCW and applicable guidelines. Nothing in this section, however, is intended to limit or change the quality of information to be applied in protecting critical areas within shorelines of the state, as required by chapter 90.58 RCW and applicable guidelines.

(4) Shoreline master programs shall provide a level of protection to critical areas located within shorelines of the state that assures no net loss of shoreline ecological functions necessary to sustain shoreline natural resources as defined by department of ecology guidelines adopted pursuant to RCW 90.58.060.

(5) Shorelines of the state shall not be considered critical areas under this chapter except to the extent that specific

areas located within shorelines of the state qualify for critical area designation based on the definition of critical areas provided by RCW 36.70A.030(5) and have been designated as such by a local government pursuant to RCW 36.70A.060(2).

(6) If a local jurisdiction's master program does not include land necessary for buffers for critical areas that occur within shorelines of the state, as authorized by *RCW 90.58.030(2)(f), then the local jurisdiction shall continue to regulate those critical areas and their required buffers pursuant to RCW 36.70A.060(2).

[2010 c 107 § 2; 2003 c 321 § 5; 1995 c 347 § 104.]

Notes:

***Reviser's note:** RCW 90.58.030 was alphabetized pursuant to RCW 1.08.015(2)(k), changing subsection (2)(f) to subsection (2)(d).

Intent -- 2010 c 107: "(1) The legislature recognizes that Engrossed Substitute House Bill No. 1933, enacted as chapter 321, Laws of 2003, modified the relationship between the shoreline management act and the growth management act. The legislature recognizes also that its 2003 efforts, while intended to create greater operational clarity between these significant shoreline and land use acts, have been the subject of differing, and occasionally contrary, legal interpretations. This act is intended to affirm and clarify the legislature's intent relating to the provisions of chapter 321, Laws of 2003.

(2) The legislature affirms that development regulations adopted under the growth management act to protect critical areas apply within shorelines of the state as provided in section 2 of this act.

(3) The legislature affirms that the adoption or update of critical area regulations under the growth management act is not automatically an update to the shoreline master program.

(4) The legislature intends for this act to be remedial and curative in nature, and to apply retroactively to July 27, 2003." [2010 c 107 § 1.]

Retroactive application -- 2010 c 107: "This act is remedial and curative in nature and applies retroactively to July 27, 2003." [2010 c 107 § 5.]

Effective date -- 2010 c 107: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 18, 2010]." [2010 c 107 § 6.]

Finding -- Intent -- 2003 c 321: See note following RCW 90.58.030.

Finding -- Severability -- Part headings and table of contents not law -- 1995 c 347: See notes following RCW 36.70A.470.

36.70A.481

Construction — Chapter 347, Laws of 1995.

Nothing in RCW 36.70A.480 shall be construed to authorize a county or city to adopt regulations applicable to shorelands as defined in RCW 90.58.030 that are inconsistent with the provisions of chapter 90.58 RCW.

[1995 c 382 § 13.]

36.70A.490

Growth management planning and environmental review fund — Established.

The growth management planning and environmental review fund is hereby established in the state treasury. Moneys may be placed in the fund from the proceeds of bond sales, tax revenues, budget transfers, federal appropriations, gifts, or any other lawful source. Moneys in the fund may be spent only after appropriation. Moneys in the fund shall be used to make grants or loans to local governments for the purposes set forth in RCW 43.21C.240, 43.21C.031, or 36.70A.500.

Any payment of either principal or interest, or both, derived from loans made from this fund must be deposited into the fund.

[2012 1st sp.s. c 1 § 309; 1995 c 347 § 115.]

Notes:

Finding -- Intent -- Limitation -- Jurisdiction/authority of Indian tribe under act -- 2012 1st sp.s. c 1: See notes following RCW 77.55.011.

Authority of department of fish and wildlife under act -- 2012 1st sp.s. c 1: See note following RCW 76.09.040.

Findings -- Purpose -- 1995 c 347 § 115: "(1) The legislature finds that:

(a) As of July 23, 1995, twenty-nine counties and two hundred eight cities are conducting comprehensive planning under the growth management act, chapter 36.70A RCW, which together comprise over ninety percent of the state's population;

(b) Comprehensive plans for many of the jurisdictions were due by July 1, 1994, and the remaining jurisdictions must complete plans under due dates ranging from October 1994 to September 1997;

(c) Concurrently with these comprehensive planning activities, local governments must conduct several other planning requirements under the growth management act, such as the adoption of capital facilities plans, urban growth areas, and development regulations;

(d) Local governments must also comply with the state environmental policy act, chapter 43.21C RCW, in the development of comprehensive plans and development regulations;

(e) The combined activities of comprehensive planning and the state environmental policy act present a serious fiscal burden upon local governments; and

(f) Detailed environmental analysis integrated with comprehensive plans, subarea plans, and development regulations will facilitate planning for and managing growth, allow greater protection of the environment, and benefit both the general public and private property owners.

(2) In order to provide financial assistance to cities and counties planning under chapter 36.70A RCW and to improve the usefulness of plans and integrated environmental analyses, the legislature has created the fund described in RCW 36.70A.490." [1995 c 347 § 114.]

Finding -- Severability -- Part headings and table of contents not law -- 1995 c 347: See notes following RCW 36.70A.470.

36.70A.500

Growth management planning and environmental review fund — Awarding of grant or loan — Procedures.

(1) The department of commerce shall provide management services for the growth management planning and environmental review fund created by RCW 36.70A.490. The department shall establish procedures for fund management. The department shall encourage participation in the grant or loan program by other public agencies. The department shall develop the grant or loan criteria, monitor the grant or loan program, and select grant or loan recipients in consultation with state agencies participating in the grant or loan program through the provision of grant or loan funds or technical assistance.

(2) A grant or loan may be awarded to a county or city that is required to or has chosen to plan under RCW 36.70A.040 and that is qualified pursuant to this section. The grant or loan shall be provided to assist a county or city in paying for the cost of preparing an environmental analysis under chapter 43.21C RCW, that is integrated with a comprehensive plan, subarea plan, plan element, countywide planning policy, development regulation, monitoring program, or other planning activity adopted under or implementing this chapter that:

(a) Improves the process for project permit review while maintaining environmental quality; or

(b) Encourages use of plans and information developed for purposes of complying with this chapter to satisfy requirements of other state programs.

(3) In order to qualify for a grant or loan, a county or city shall:

(a) Demonstrate that it will prepare an environmental analysis pursuant to chapter 43.21C RCW and subsection (2) of this section that is integrated with a comprehensive plan, subarea plan, plan element, countywide planning policy, development regulations, monitoring program, or other planning activity adopted under or implementing this chapter;

(b) Address environmental impacts and consequences, alternatives, and mitigation measures in sufficient detail to allow the analysis to be adopted in whole or in part by applicants for development permits within the geographic area analyzed in the plan;

(c) Demonstrate that procedures for review of development permit applications will be based on the integrated plans and environmental analysis;

(d) Include mechanisms to monitor the consequences of growth as it occurs in the plan area and to use the resulting data to update the plan, policy, or implementing mechanisms and associated environmental analysis;

(e) Demonstrate substantial progress towards compliance with the requirements of this chapter. A county or city that is more than six months out of compliance with a requirement of this chapter is deemed not to be making substantial progress towards compliance; and

(f) Provide local funding, which may include financial participation by the private sector.

(4) In awarding grants or loans, the department shall give preference to proposals that include one or more of the following elements:

(a) Financial participation by the private sector, or a public/private partnering approach;

(b) Identification and monitoring of system capacities for elements of the built environment, and to the extent appropriate, of the natural environment;

(c) Coordination with state, federal, and tribal governments in project review;

(d) Furtherance of important state objectives related to economic development, protection of areas of statewide significance, and siting of essential public facilities;

(e) Programs to improve the efficiency and effectiveness of the permitting process by greater reliance on integrated plans and prospective environmental analysis;

(f) Programs for effective citizen and neighborhood involvement that contribute to greater likelihood that planning decisions can be implemented with community support;

(g) Programs to identify environmental impacts and establish mitigation measures that provide effective means to satisfy concurrency requirements and establish project consistency with the plans; or

(h) Environmental review that addresses the impacts of increased density or intensity of comprehensive plans, subarea plans, or receiving areas designated by a city or town under the regional transfer of development rights program in chapter 43.362 RCW.

(5) If the local funding includes funding provided by other state functional planning programs, including open space planning and watershed or basin planning, the functional plan shall be integrated into and be consistent with the comprehensive plan.

(6) State agencies shall work with grant or loan recipients to facilitate state and local project review processes that will implement the projects receiving grants or loans under this section.

[2012 1st sp.s. c 1 § 310; 1997 c 429 § 28; 1995 c 347 § 116.]

Notes:

Finding -- Intent -- Limitation -- Jurisdiction/authority of Indian tribe under act -- 2012 1st sp.s. c 1: See notes following RCW 77.55.011.

Authority of department of fish and wildlife under act -- 2012 1st sp.s. c 1: See note following RCW 76.09.040.

Severability -- 1997 c 429: See note following RCW 36.70A.3201.

Finding -- Severability -- Part headings and table of contents not law -- 1995 c 347: See notes following RCW 36.70A.470.

36.70A.510

General aviation airports.

Adoption and amendment of comprehensive plan provisions and development regulations under this chapter affecting a general aviation airport are subject to RCW 36.70.547.

[1996 c 239 § 5.]

36.70A.520

National historic towns — Designation.

Counties that are required or choose to plan under RCW 36.70A.040 may authorize and designate national historic towns that may constitute urban growth outside of urban growth areas as limited by this section. A national historic town means a town or district that has been designated a national historic landmark by the United States secretary of the interior pursuant to 16 U.S.C. 461 et seq., as amended, based on its significant historic urban features, and which historically contained a mix of residential and commercial or industrial uses.

A national historic town may be designated under this chapter by a county only if:

(1) The comprehensive plan specifically identifies policies to guide the preservation, redevelopment, infill, and development of the town;

(2) The comprehensive plan and development regulations specify a mix of residential, commercial, industrial, tourism-recreation, waterfront, or other historical uses, along with other uses, infrastructure, and services which promote the economic sustainability of the town and its historic character. To promote historic preservation, redevelopment, and an economically sustainable community, the town also may include the types of uses that existed at times during its history and is not limited to those present at the time of the historic designation. Portions of the town may include urban densities if they reflect density patterns that existed at times during its history;

(3) The boundaries of the town include all of the area contained in the national historic landmark designation, along with any additional limited areas determined by the county as appropriate for transitional uses and buffering. Provisions for transitional uses and buffering must be compatible with the town's historic character and must protect the existing natural and built environment under the requirements of this chapter within and beyond the additional limited areas, including visual compatibility. The comprehensive plan and development regulations must include restrictions that preclude new urban or suburban land uses in the vicinity of the town, including the additional limited areas, except in areas otherwise designated for urban growth under this chapter;

(4) The development regulations provide for architectural controls and review procedures applicable to the rehabilitation, redevelopment, infill, or new development to promote the historic character of the town;

(5) The county finds that the national historic town is consistent with the development regulations established for critical areas; and

(6) On-site and off-site infrastructure impacts are fully considered and mitigated concurrent with development.

A county may allocate a portion of its twenty-year population projection, prepared by the office of financial management, to the national historic town corresponding to the projected number of permanent residents within the national historic town.

[2000 c 196 § 1.]

36.70A.530

Land use development incompatible with military installation not allowed — Revision of comprehensive plans and development regulations.

(1) Military installations are of particular importance to the economic health of the state of Washington and it is a priority of the state to protect the land surrounding our military installations from incompatible development.

(2) Comprehensive plans, amendments to comprehensive plans, development regulations, or amendments to development regulations adopted under this section shall be adopted or amended concurrent with the scheduled update provided in RCW 36.70A.130, except that counties and cities identified in RCW 36.70A.130(4)(a) shall comply with this section on or before December 1, 2005, and shall thereafter comply with this section on a schedule consistent with RCW 36.70A.130(4).

(3) A comprehensive plan, amendment to a plan, a development regulation or amendment to a development regulation, should not allow development in the vicinity of a military installation that is incompatible with the installation's ability to carry out its mission requirements. A city or county may find that an existing comprehensive plan or development regulations are compatible with the installation's ability to carry out its mission requirements.

(4) As part of the requirements of RCW 36.70A.070(1) each county and city planning under RCW 36.70A.040 that has a federal military installation, other than a reserve center, that employs one hundred or more personnel and is operated by the United States department of defense within or adjacent to its border, shall notify the commander of the military installation of the county's or city's intent to amend its comprehensive plan or development regulations to address lands adjacent to military installations to ensure those lands are protected from incompatible development.

(5)(a) The notice provided under subsection (4) of this section shall request from the commander of the military installation a written recommendation and supporting facts relating to the use of land being considered in the adoption of a comprehensive plan or an amendment to a plan. The notice shall provide sixty days for a response from the commander. If the commander does not submit a response to such request within sixty days, the local government may presume that implementation of the proposed plan or amendment will not have any adverse effect on the operation of the installation.

(b) When a county or city intends to amend its development regulations to be consistent with the comprehensive plan elements addressed in (a) of this subsection, notice shall be provided to the commander of the military installation consistent with subsection (4) of this section. The notice shall request from the commander of the military installation a written recommendation and supporting facts relating to the use of land being considered in the amendment to the development regulations. The notice shall provide sixty days for a response from the commander to the requesting government. If the commander does not submit a response to such request within sixty days, the local government may presume that implementation of the proposed development regulation or amendment will not have any adverse effect on the operation of the installation.

[2004 c 28 § 2.]

Notes:

Finding -- 2004 c 28: "The United States military is a vital component of the Washington state economy. The protection of military installations from incompatible development of land is essential to the health of Washington's economy and quality of life. Incompatible development of land close to a military installation reduces the ability of the military to complete its mission or to undertake new missions, and increases its cost of operating. The department of defense evaluates continued utilization of military installations based upon their operating costs, their ability to carry out missions, and their ability to undertake new missions." [2004 c 28 § 1.]

36.70A.540

Affordable housing incentive programs — Low-income housing units.

(1)(a) Any city or county planning under RCW 36.70A.040 may enact or expand affordable housing incentive programs providing for the development of low-income housing units through development regulations or conditions on rezoning or permit decisions, or both, on one or more of the following types of development: Residential; commercial;

industrial; or mixed-use. An affordable housing incentive program may include, but is not limited to, one or more of the following:

- (i) Density bonuses within the urban growth area;
- (ii) Height and bulk bonuses;
- (iii) Fee waivers or exemptions;
- (iv) Parking reductions; or
- (v) Expedited permitting.

(b) The city or county may enact or expand such programs whether or not the programs may impose a tax, fee, or charge on the development or construction of property.

(c) If a developer chooses not to participate in an optional affordable housing incentive program adopted and authorized under this section, a city, county, or town may not condition, deny, or delay the issuance of a permit or development approval that is consistent with zoning and development standards on the subject property absent incentive provisions of this program.

(2) Affordable housing incentive programs enacted or expanded under this section shall comply with the following:

(a) The incentives or bonuses shall provide for the development of low-income housing units;

(b) Jurisdictions shall establish standards for low-income renter or owner occupancy housing, including income guidelines consistent with local housing needs, to assist low-income households that cannot afford market-rate housing. Low-income households are defined for renter and owner occupancy program purposes as follows:

(i) Rental housing units to be developed shall be affordable to and occupied by households with an income of fifty percent or less of the county median family income, adjusted for family size;

(ii) Owner occupancy housing units shall be affordable to and occupied by households with an income of eighty percent or less of the county median family income, adjusted for family size. The legislative authority of a jurisdiction, after holding a public hearing, may establish lower income levels; and

(iii) The legislative authority of a jurisdiction, after holding a public hearing, may also establish higher income levels for rental housing or for owner occupancy housing upon finding that higher income levels are needed to address local housing market conditions. The higher income level for rental housing may not exceed eighty percent of the county area median family income. The higher income level for owner occupancy housing may not exceed one hundred percent of the county area median family income. These established higher income levels are considered "low-income" for the purposes of this section;

(c) The jurisdiction shall establish a maximum rent level or sales price for each low-income housing unit developed under the terms of a program and may adjust these levels or prices based on the average size of the household expected to occupy the unit. For renter-occupied housing units, the total housing costs, including basic utilities as determined by the jurisdiction, may not exceed thirty percent of the income limit for the low-income housing unit;

(d) Where a developer is utilizing a housing incentive program authorized under this section to develop market rate housing, and is developing low-income housing to satisfy the requirements of the housing incentive program, the low-income housing units shall be provided in a range of sizes comparable to those units that are available to other residents. To the extent practicable, the number of bedrooms in low-income units must be in the same proportion as the number of bedrooms in units within the entire development. The low-income units shall generally be distributed throughout the development and have substantially the same functionality as the other units in the development;

(e) Low-income housing units developed under an affordable housing incentive program shall be committed to continuing affordability for at least fifty years. A local government, however, may accept payments in lieu of continuing affordability. The program shall include measures to enforce continuing affordability and income standards applicable to low-income units constructed under this section that may include, but are not limited to, covenants, options, or other agreements to be executed and recorded by owners and developers;

(f) Programs authorized under subsection (1) of this section may apply to part or all of a jurisdiction and different standards may be applied to different areas within a jurisdiction or to different types of development. Programs authorized

under this section may be modified to meet local needs and may include provisions not expressly provided in this section or RCW 82.02.020;

(g) Low-income housing units developed under an affordable housing incentive program are encouraged to be provided within developments for which a bonus or incentive is provided. However, programs may allow units to be provided in a building located in the general area of the development for which a bonus or incentive is provided; and

(h) Affordable housing incentive programs may allow a payment of money or property in lieu of low-income housing units if the jurisdiction determines that the payment achieves a result equal to or better than providing the affordable housing on-site, as long as the payment does not exceed the approximate cost of developing the same number and quality of housing units that would otherwise be developed. Any city or county shall use these funds or property to support the development of low-income housing, including support provided through loans or grants to public or private owners or developers of housing.

(3) Affordable housing incentive programs enacted or expanded under this section may be applied within the jurisdiction to address the need for increased residential development, consistent with local growth management and housing policies, as follows:

(a) The jurisdiction shall identify certain land use designations within a geographic area where increased residential development will assist in achieving local growth management and housing policies;

(b) The jurisdiction shall provide increased residential development capacity through zoning changes, bonus densities, height and bulk increases, parking reductions, or other regulatory changes or other incentives;

(c) The jurisdiction shall determine that increased residential development capacity or other incentives can be achieved within the identified area, subject to consideration of other regulatory controls on development; and

(d) The jurisdiction may establish a minimum amount of affordable housing that must be provided by all residential developments being built under the revised regulations, consistent with the requirements of this section.

[2009 c 80 § 1; 2006 c 149 § 2.]

Notes:

Findings -- 2006 c 149: "The legislature finds that as new market-rate housing developments are constructed and housing costs rise, there is a significant and growing number of low-income households that cannot afford market-rate housing in Washington state. The legislature finds that assistance to low-income households that cannot afford market-rate housing requires a broad variety of tools to address this serious, statewide problem. The legislature further finds that absent any incentives to provide low-income housing, market conditions will result in housing developments in many areas that lack units affordable to low-income households, circumstances that can cause adverse socioeconomic effects.

The legislature encourages cities, towns, and counties to enact or expand affordable housing incentive programs, including density bonuses and other incentives, to increase the availability of low-income housing for renter and owner occupancy that is located in largely market-rate housing developments throughout the community, consistent with local needs and adopted comprehensive plans. While this act establishes minimum standards for those cities, towns, and counties choosing to implement or expand upon an affordable housing incentive program, cities, towns, and counties are encouraged to enact programs that address local circumstances and conditions while simultaneously contributing to the statewide need for additional low-income housing." [2006 c 149 § 1.]

Construction -- 2006 c 149: "The powers granted in this act are supplemental and additional to the powers otherwise held by local governments, and nothing in this act shall be construed as a limit on such powers. The authority granted in this act shall extend to any affordable housing incentive program enacted or expanded prior to June 7, 2006, if the extension is adopted by the applicable local government in an ordinance or resolution." [2006 c 149 § 4.]

36.70A.550

Aquifer conservation zones.

(1) Any city coterminous with, and comprised only of, an island that relies solely on groundwater aquifers for its potable water source and does not have reasonable access to a potable water source outside its jurisdiction may designate one or more aquifer conservation zones.

Aquifer conservation zones may only be designated for the purpose of conserving and protecting potable water sources.

(2) Aquifer conservation zones may not be considered critical areas under this chapter except to the extent that specific areas located within aquifer conservation zones qualify for critical area designation and have been designated as such under RCW 36.70A.060(2).

(3) Any city may consider whether an area is within an aquifer conservation zone when determining the residential density of that particular area. The residential densities within conservation zones, in combination with other densities of the city, must be sufficient to accommodate projected population growth under RCW 36.70A.110.

(4) Nothing in this section may be construed to modify the population accommodation obligations required of jurisdictions under this chapter.

[2007 c 159 § 1.]

36.70A.570

Regulation of forest practices.

(1) Each county, city, and town assuming regulation of forest practices as provided in RCW 76.09.240 (1) and (2) shall adopt development regulations that:

- (a) Protect public resources, as defined in RCW 76.09.020, from material damage or the potential for material damage;
- (b) Require appropriate approvals for all phases of the conversion of forest lands, including clearing and grading;
- (c) Are guided by the planning goals in RCW 36.70A.020 and by the purposes and policies of the forest practices act as set forth in RCW 76.09.010; and
- (d) Are consistent with or supplement development regulations that protect critical areas pursuant to RCW 36.70A.060.

(2) If necessary, each county, city, or town that assumes regulation of forest practices under RCW 76.09.240 shall amend its comprehensive plan to ensure consistency between its comprehensive plan and development regulations.

(3) Before a county, city, or town may regulate forest practices under RCW 76.09.240 (1) and (2), it shall update its development regulations as required by RCW 36.70A.130 and, if applicable, RCW 36.70A.215. Forest practices regulations adopted under RCW 76.09.240 (1) and (2) may be adopted as part of the legislative action taken under RCW 36.70A.130 or 36.70A.215.

[2007 c 236 § 2.]

36.70A.695

Development regulations — Jurisdictions specified — Electric vehicle infrastructure.

(1) By July 1, 2010, the development regulations of any jurisdiction:

- (a) Adjacent to Interstate 5, Interstate 90, Interstate 405, or state route number 520, with a population over twenty thousand, and located in a county with a population over one million five hundred thousand; or
- (b) Adjacent to Interstate 5 and located in a county with a population greater than six hundred thousand; or
- (c) Adjacent to Interstate 5 and located in a county with a state capitol within its borders;

planning under this chapter must allow electric vehicle infrastructure as a use in all areas except those zoned for residential or resource use or critical areas. A jurisdiction may adopt and apply other development regulations that do not have the effect of precluding the siting of electric vehicle infrastructure in areas where that use is allowed.

(2) By July 1, 2011, or six months after the distribution required under RCW 43.31.970 occurs, whichever is later, the development regulations of any jurisdiction adjacent to Interstate 5, Interstate 90, Interstate 405, or state route number 520 planning under this chapter must allow electric vehicle infrastructure as a use in all areas except those zoned for residential or resource use or critical areas. A jurisdiction may adopt and apply other development regulations that do not have the effect of precluding the siting of electric vehicle infrastructure in areas where that use is allowed.

(3) By July 1, 2011, or six months after the distribution required under RCW 43.31.970 occurs, whichever is later, the development regulations of any jurisdiction planning under this chapter must allow battery charging stations as a use in all areas except those zoned for residential or resource use or critical areas. A jurisdiction may adopt and apply other development regulations that do not have the effect of precluding the siting of electric vehicle infrastructure in areas where that use is allowed.

(4) Cities are authorized to adopt incentive programs to encourage the retrofitting of existing structures with the electrical outlets capable of charging electric vehicles. Incentives may include bonus height, site coverage, floor area ratio, and transferable development rights for use in urban growth areas.

(5) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Battery charging station" means an electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles, which meet or exceed any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

(b) "Battery exchange station" means a fully automated facility that will enable an electric vehicle with a swappable battery to enter a drive lane and exchange the depleted battery with a fully charged battery through a fully automated process, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

(c) "Electric vehicle infrastructure" means structures, machinery, and equipment necessary and integral to support an electric vehicle, including battery charging stations, rapid charging stations, and battery exchange stations.

(d) "Rapid charging station" means an industrial grade electrical outlet that allows for faster recharging of electric vehicle batteries through higher power levels, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

(6) If federal funding for public investment in electric vehicles, electric vehicle infrastructure, or alternative fuel distribution infrastructure is not provided by February 1, 2010, subsection (1) of this section is null and void.

[2009 c 459 § 12.]

Notes:

Finding -- Purpose -- 2009 c 459: See note following RCW 47.80.090.

Regional transportation planning organizations -- Electric vehicle infrastructure: RCW 47.80.090.

36.70A.700

Purpose — Intent — 2011 c 360.

(1) The purpose of chapter 360, Laws of 2011 is to establish the voluntary stewardship program as recommended in the report submitted by the William D. Ruckelshaus Center to the legislature as required by chapter 353, Laws of 2007 and chapter 203, Laws of 2010.

(2) It is the intent of chapter 360, Laws of 2011 to:

(a) Promote plans to protect and enhance critical areas within the area where agricultural activities are conducted, while maintaining and improving the long-term viability of agriculture in the state of Washington and reducing the conversion of farmland to other uses;

(b) Focus and maximize voluntary incentive programs to encourage good riparian and ecosystem stewardship as an alternative to historic approaches used to protect critical areas;

(c) Rely upon RCW 36.70A.060 for the protection of critical areas for those counties that do not choose to participate in this program;

(d) Leverage existing resources by relying upon existing work and plans in counties and local watersheds, as well as existing state and federal programs to the maximum extent practicable to achieve program goals;

(e) Encourage and foster a spirit of cooperation and partnership among county, tribal, environmental, and agricultural interests to better assure the program success;

(f) Improve compliance with other laws designed to protect water quality and fish habitat; and

(g) Rely upon voluntary stewardship practices as the primary method of protecting critical areas and not require the cessation of agricultural activities.

[2011 c 360 § 1.]

36.70A.702

Construction.

Nothing in RCW 36.70A.700 through 36.70A.760 may be construed to:

(1) Interfere with or supplant the ability of any agricultural operator to work cooperatively with a conservation district or participate in state or federal conservation programs;

(2) Require an agricultural operator to discontinue agricultural activities legally existing before July 22, 2011;

(3) Prohibit the voluntary sale or leasing of land for conservation purposes, either in fee or as an easement;

(4) Grant counties or state agencies additional authority to regulate critical areas on lands used for agricultural activities; and

(5) Limit the authority of a state agency, local government, or landowner to carry out its obligations under any other federal, state, or local law.

[2011 c 360 § 15.]

36.70A.703

Definitions.

The definitions in this section apply to RCW 36.70A.700 through 36.70A.760 and RCW 36.70A.130 and 36.70A.280 unless the context clearly requires otherwise.

(1) "Agricultural activities" means all agricultural uses and practices as defined in RCW 90.58.065.

(2) "Commission" means the state conservation commission as defined in RCW 89.08.030.

(3) "Director" means the executive director of the state conservation commission.

(4) "Enhance" or "enhancement" means to improve the processes, structure, and functions existing, as of July 22, 2011, of ecosystems and habitats associated with critical areas.

(5) "Participating watershed" means a watershed identified by a county under RCW 36.70A.710(1) to participate in the program.

(6) "Priority watershed" means a geographic area nominated by the county and designated by the commission.

(7) "Program" means the voluntary stewardship program established in RCW 36.70A.705.

(8) "Protect" or "protecting" means to prevent the degradation of functions and values existing as of July 22, 2011.

(9) "Receipt of funding" means the date a county takes legislative action accepting any funds as required in RCW 36.70A.715(1) to implement the program.

(10) "Statewide advisory committee" means the statewide advisory committee created in RCW 36.70A.745.

(11) "Technical panel" means the directors or director designees of the following agencies: The department of fish and wildlife; the department of agriculture; the department of ecology; and the commission.

(12) "Watershed" means a water resource inventory area, salmon recovery planning area, or a subbasin as determined by a county.

(13) "Watershed group" means an entity designated by a county under the provisions of RCW 36.70A.715.

(14) "Work plan" means a watershed work plan developed under the provisions of RCW 36.70A.720.

[2011 c 360 § 2.]

36.70A.705

Voluntary stewardship program established — Administered by commission — Agency participation.

(1) The voluntary stewardship program is established to be administered by the commission. The program shall be designed to protect and enhance critical areas on lands used for agricultural activities through voluntary actions by agricultural operators.

(2) In administering the program, the commission must:

(a) Establish policies and procedures for implementing the program;

(b) Administer funding for counties to implement the program including, but not limited to, funding to develop strategies and incentive programs and to establish local guidelines for watershed stewardship programs;

(c) Administer the program's technical assistance funds and coordinate among state agencies and other entities for the implementation of the program;

(d) Establish a technical panel;

(e) In conjunction with the technical panel, review and evaluate: (i) Work plans submitted for approval under RCW 36.70A.720(2)(a); and (ii) reports submitted under RCW 36.70A.720(2)(b);

(f) Review and evaluate the program's success and effectiveness and make appropriate changes to policies and procedures for implementing the program, in consultation with the statewide advisory committee and other affected agencies;

(g) Designate priority watersheds based upon the recommendation of the statewide advisory committee. The commission and the statewide advisory committee may only consider watersheds nominated by counties under RCW 36.70A.710. When designating priority watersheds, the commission and the statewide advisory committee shall consider the statewide significance of the criteria listed in RCW 36.70A.710(3);

(h) Provide administrative support for the program's statewide advisory committee in its work. The administrative support must be in collaboration with the department of ecology and other agencies involved in the program;

(i) Maintain a web site about the program that includes times, locations, and agenda information for meetings of the statewide advisory committee;

(j) Report to the legislature on the general status of program implementation by December 1, 2013, and December 1, 2015;

(k) In conjunction with the statewide advisory committee, conduct a review of the program beginning in 2017 and every five years thereafter, and report its findings to the legislature by December 1st; and

(l) Report to the appropriate committees of the legislature in the format provided in RCW 43.01.036.

(3) The department shall assist counties participating in the program to develop plans and development regulations under RCW 36.70A.735(1).

(4) The commission, department, department of agriculture, department of fish and wildlife, department of ecology, and other state agencies as directed by the governor shall:

(a) Cooperate and collaborate to implement the program; and

(b) Develop materials to assist local watershed groups in development of work plans.

(5) State agencies conducting new monitoring to implement the program in a watershed must focus on the goals and benchmarks of the work plan.

[2011 c 360 § 3.]

36.70A.710

Critical areas protection — Alternative to RCW 36.70A.060 — County's responsibilities — Procedures.

(1)(a) As an alternative to protecting critical areas in areas used for agricultural activities through development regulations adopted under RCW 36.70A.060, the legislative authority of a county may elect to protect such critical areas through the program.

(b) In order to participate in the program, within six months after July 22, 2011, the legislative authority of a county must adopt an ordinance or resolution that:

(i) Elects to have the county participate in the program;

(ii) Identifies the watersheds that will participate in the program; and

(iii) Based on the criteria in subsection (4) of this section, nominates watersheds for consideration by the commission as state priority watersheds.

(2) Before adopting the ordinance or resolution under subsection (1) of this section, the county must (a) confer with tribes, and environmental and agricultural interests; and (b) provide notice following the public participation and notice provisions of RCW 36.70A.035 to property owners and other affected and interested individuals, tribes, government agencies, businesses, school districts, and organizations.

(3) In identifying watersheds to participate in the program, a county must consider:

(a) The role of farming within the watershed, including the number and acreage of farms, the economic value of crops and livestock, and the risk of the conversion of farmland;

(b) The overall likelihood of completing a successful program in the watershed; and

(c) Existing watershed programs, including those of other jurisdictions in which the watershed has territory.

(4) In identifying priority watersheds, a county must consider the following:

(a) The role of farming within the watershed, including the number and acreage of farms, the economic value of crops and livestock, and the risk of the conversion of farmland;

(b) The importance of salmonid resources in the watershed;

(c) An evaluation of the biological diversity of wildlife species and their habitats in the geographic region including their

significance and vulnerability;

(d) The presence of leadership within the watershed that is representative and inclusive of the interests in the watershed;

(e) Integration of regional watershed strategies, including the availability of a data and scientific review structure related to all types of critical areas;

(f) The presence of a local watershed group that is willing and capable of overseeing a successful program, and that has the operational structures to administer the program effectively, including professional technical assistance staff, and monitoring and adaptive management structures; and

(g) The overall likelihood of completing a successful program in the watershed.

(5) Except as otherwise provided in subsection (9) of this section, beginning with the effective date of the ordinance or resolution adopted under subsection (1) of this section, the program applies to all unincorporated property upon which agricultural activities occur within a participating watershed.

(6)(a) Except as otherwise provided in (b) of this subsection, within two years after July 22, 2011, a county must review and, if necessary, revise development regulations adopted under this chapter to protect critical areas as they specifically apply to agricultural activities:

(i) If the county has not elected to participate in the program, for all unincorporated areas; or

(ii) If the county has elected to participate in the program, for any watershed not participating in the program.

(b) A county that between July 1, 2003, and June 30, 2007, in accordance with RCW 36.70A.130 completed the review of its development regulations as required by RCW 36.70A.130 to protect critical areas as they specifically apply to agricultural activities is not required to review and revise its development regulations until required by RCW 36.70A.130.

(c) After the review and amendment required under (a) of this subsection, RCW 36.70A.130 applies to the subsequent review and amendment of development regulations adopted under this chapter to protect critical areas as they specifically apply to agricultural activities.

(7)(a) A county that has made the election under subsection (1) of this section may withdraw a participating watershed from the program by adopting an ordinance or resolution withdrawing the watershed from the program. A county may withdraw a watershed from the program at the end of three years, five years, or eight years after receipt of funding, or any time after ten years from receipt of funding.

(b) Within eighteen months after withdrawing a participating watershed from the program, the county must review and, if necessary, revise its development regulations that protect critical areas in that watershed as they specifically apply to agricultural activities. The development regulations must protect the critical area functions and values as they existed on July 22, 2011. RCW 36.70A.130 applies to the subsequent review and amendment of development regulations adopted under this chapter to protect critical areas as they specifically apply to agricultural activities.

(8) A county that has made the election under subsection (1) of this section is eligible for a share of the funding made available to implement the program, subject to funding availability from the state.

(9) A county that has made the election under subsection (1) of this section is not required to implement the program in a participating watershed until adequate funding for the program in that watershed is provided to the county.

[2011 c 360 § 4.]

36.70A.715

Funding by commission — County's duties — Watershed group established.

(1) When the commission makes funds available to a county that has made the election provided in RCW 36.70A.710 (1), the county must within sixty days:

(a) Acknowledge the receipt of funds; and

(b) Designate a watershed group and an entity to administer funds for each watershed for which funding has been provided.

(2) A county must confer with tribes and interested stakeholders before designating or establishing a watershed group.

(3) The watershed group must include broad representation of key watershed stakeholders and, at a minimum, representatives of agricultural and environmental groups and tribes that agree to participate. The county should encourage existing lead entities, watershed planning units, or other integrating organizations to serve as the watershed group.

(4) The county may designate itself, a tribe, or another entity to coordinate the local watershed group.

[2011 c 360 § 5.]

36.70A.720

Watershed group's duties — Work plan — Conditional priority funding.

(1) A watershed group designated by a county under RCW 36.70A.715 must develop a work plan to protect critical areas while maintaining the viability of agriculture in the watershed. The work plan must include goals and benchmarks for the protection and enhancement of critical areas. In developing and implementing the work plan, the watershed group must:

(a) Review and incorporate applicable water quality, watershed management, farmland protection, and species recovery data and plans;

(b) Seek input from tribes, agencies, and stakeholders;

(c) Develop goals for participation by agricultural operators conducting commercial and noncommercial agricultural activities in the watershed necessary to meet the protection and enhancement benchmarks of the work plan;

(d) Ensure outreach and technical assistance is provided to agricultural operators in the watershed;

(e) Create measurable benchmarks that, within ten years after the receipt of funding, are designed to result in (i) the protection of critical area functions and values and (ii) the enhancement of critical area functions and values through voluntary, incentive-based measures;

(f) Designate the entity or entities that will provide technical assistance;

(g) Work with the entity providing technical assistance to ensure that individual stewardship plans contribute to the goals and benchmarks of the work plan;

(h) Incorporate into the work plan any existing development regulations relied upon to achieve the goals and benchmarks for protection;

(i) Establish baseline monitoring for: (i) Participation activities and implementation of the voluntary stewardship plans and projects; (ii) stewardship activities; and (iii) the effects on critical areas and agriculture relevant to the protection and enhancement benchmarks developed for the watershed;

(j) Conduct periodic evaluations, institute adaptive management, and provide a written report of the status of plans and accomplishments to the county and to the commission within sixty days after the end of each biennium;

(k) Assist state agencies in their monitoring programs; and

(l) Satisfy any other reporting requirements of the program.

(2)(a) The watershed group shall develop and submit the work plan to the director for approval as provided in RCW 36.70A.725.

(b)(i) Not later than five years after the receipt of funding for a participating watershed, the watershed group must

report to the director and the county on whether it has met the work plan's protection and enhancement goals and benchmarks.

(ii) If the watershed group determines the protection goals and benchmarks have been met, and the director concurs under RCW 36.70A.730, the watershed group shall continue to implement the work plan.

(iii) If the watershed group determines the protection goals and benchmarks have not been met, it must propose and submit to the director an adaptive management plan to achieve the goals and benchmarks that were not met. If the director does not approve the adaptive management plan under RCW 36.70A.730, the watershed is subject to RCW 36.70A.735.

(iv) If the watershed group determines the enhancement goals and benchmarks have not been met, the watershed group must determine what additional voluntary actions are needed to meet the benchmarks, identify the funding necessary to implement these actions, and implement these actions when funding is provided.

(c)(i) Not later than ten years after receipt of funding for a participating watershed, and every five years thereafter, the watershed group must report to the director and the county on whether it has met the protection and enhancement goals and benchmarks of the work plan.

(ii) If the watershed group determines the protection goals and benchmarks have been met, and the director concurs under RCW 36.70A.730, the watershed group shall continue to implement the work plan.

(iii) If the watershed group determines the protection goals and benchmarks have not been met, the watershed is subject to RCW 36.70A.735.

(iv) If the watershed group determines the enhancement goals and benchmarks have not been met, the watershed group must determine what additional voluntary actions are needed to meet the benchmarks, identify the funding necessary to implement these actions, and implement these actions when funding is provided.

(3) Following approval of a work plan, a county or watershed group may request a state or federal agency to focus existing enforcement authority in that participating watershed, if the action will facilitate progress toward achieving work plan protection goals and benchmarks.

(4) The commission may provide priority funding to any watershed designated under the provisions of RCW 36.70A.705(2)(g). The director, in consultation with the statewide advisory committee, shall work with the watershed group to develop an accelerated implementation schedule for watersheds that receive priority funding.

(5) Commercial and noncommercial agricultural operators participating in the program are eligible to receive funding and assistance under watershed programs.

[2011 c 360 § 6.]

36.70A.725

Technical review of work plan — Time frame for action by director.

(1) Upon receipt of a work plan submitted to the director under RCW 36.70A.720(2)(a), the director must submit the work plan to the technical panel for review.

(2) The technical panel shall review the work plan and report to the director within forty-five days after the director receives the work plan. The technical panel shall assess whether at the end of ten years after receipt of funding, the work plan, in conjunction with other existing plans and regulations, will protect critical areas while maintaining and enhancing the viability of agriculture in the watershed.

(3)(a) If the technical panel determines the proposed work plan will protect critical areas while maintaining and enhancing the viability of agriculture in the watershed:

(i) It must recommend approval of the work plan; and

(ii) The director must approve the work plan.

(b) If the technical panel determines the proposed work plan will not protect critical areas while maintaining and enhancing the viability of agriculture in the watershed:

(i) It must identify the reasons for its determination; and

(ii) The director must advise the watershed group of the reasons for disapproval.

(4) The watershed group may modify and resubmit its work plan for review and approval consistent with this section.

(5) If the director does not approve a work plan submitted under this section within two years and nine months after receipt of funding, the director shall submit the work plan to the statewide advisory committee for resolution. If the statewide advisory committee recommends approval, the director must approve the work plan.

(6) If the director does not approve a work plan for a watershed within three years after receipt of funding, the provisions of RCW 36.70A.735(2) apply to the watershed.

[2011 c 360 § 7.]

36.70A.730

Report by watershed group — Director consults with statewide advisory committee.

(1) Upon receipt of a report by a watershed group under RCW 36.70A.720(2)(b) that the work plan goals and benchmarks have been met, the director must consult with the statewide advisory committee. If the director concurs with the watershed group report, the watershed group shall continue to implement the work plan. If the director does not concur with the watershed group report, the director shall consult with the statewide advisory committee following the procedures in subsection (2) of this section.

(2) If either the director, following receipt of a report under subsection (1) of this section, or the watershed group, in the report submitted to the director under RCW 36.70A.720(2)(b), concludes that the work plan goals and benchmarks for protection have not been met, the director must consult with the statewide advisory committee for a recommendation on how to proceed. If the director, acting upon recommendation from the statewide advisory committee, determines that the watershed is likely to meet the goals and benchmarks with an additional six months of planning and implementation time, the director must grant an extension. If the director, acting upon a recommendation from the statewide advisory committee, determines that the watershed is unlikely to meet the goals and benchmarks within six months, the watershed is subject to RCW 36.70A.735.

(3) A watershed that fails to meet its goals and benchmarks for protection within the six-month time extension under subsection (2) of this section is subject to RCW 36.70A.735.

[2011 c 360 § 8.]

36.70A.735

When work plan is not approved, fails, or is unfunded — County's duties — Rules.

(1) Within eighteen months after one of the events in subsection (2) of this section, a county must:

(a) Develop, adopt, and implement a watershed work plan approved by the department that protects critical areas in areas used for agricultural activities while maintaining the viability of agriculture in the watershed. The department shall consult with the departments of agriculture, ecology, and fish and wildlife and the commission, and other relevant state agencies before approving or disapproving the proposed work plan. The appeal of the department's decision under this subsection is subject to appeal under RCW 36.70A.280;

(b) Adopt development regulations previously adopted under this chapter by another local government for the purpose of protecting critical areas in areas used for agricultural activities. Regulations adopted under this subsection (1)(b) must be from a region with similar agricultural activities, geography, and geology and must: (i) Be from Clallam, Clark, King, or Whatcom counties; or (ii) have been upheld by a growth management hearings board or court after July 1, 2011, where the board or court determined that the provisions adequately protected critical areas functions and values in areas used

for agricultural activities;

(c) Adopt development regulations certified by the department as protective of critical areas in areas used for agricultural activities as required by this chapter. The county may submit existing or amended regulations for certification. The department must make its decision on whether to certify the development regulations within ninety days after the county submits its request. If the department denies the certification, the county shall take an action under (a), (b), or (d) of this subsection. The department must consult with the departments of agriculture, ecology, and fish and wildlife and the commission before making a certification under this section. The appeal of the department's decision under this subsection (1)(c) is subject to appeal under RCW 36.70A.280; or

(d) Review and, if necessary, revise development regulations adopted under this chapter to protect critical areas as they relate to agricultural activities.

(2) A participating watershed is subject to this section if:

(a) The work plan is not approved by the director as provided in RCW 36.70A.725;

(b) The work plan's goals and benchmarks for protection have not been met as provided in RCW 36.70A.720;

(c) The commission has determined under RCW 36.70A.740 that the county, department, commission, or departments of agriculture, ecology, or fish and wildlife have not received adequate funding to implement a program in the watershed; or

(d) The commission has determined under RCW 36.70A.740 that the watershed has not received adequate funding to implement the program.

(3) The department shall adopt rules to implement subsection (1)(a) and (c) of this section.

[2011 c 360 § 9.]

36.70A.740

Commission's duties — Timelines.

(1) By July 31, 2015, the commission must:

(a) In consultation with each county that has elected under RCW 36.70A.710 to participate in the program, determine which participating watersheds received adequate funding to establish and implement the program in a participating watershed by July 1, 2015; and

(b) In consultation with other state agencies, for each participating watershed determine whether state agencies required to take action under the provisions of RCW 36.70A.700 through 36.70A.760 have received adequate funding to support the program by July 1, 2015.

(2) By July 31, 2017, and every two years thereafter, in consultation with each county that has elected under RCW 36.70A.710 to participate in the program and other state agencies, the commission shall determine for each participating watershed whether adequate funding to implement the program was provided during the preceding biennium as provided in subsection (1) of this section.

(3) If the commission determines under subsection (1) or (2) of this section that a participating watershed has not received adequate funding, the watershed is subject to the provisions of RCW 36.70A.735.

(4) In consultation with the statewide advisory committee and other state agencies, not later than August 31, 2015, and each August 31st every two years thereafter, the commission shall report to the legislature and each county that has elected under RCW 36.70A.710 to participate in the program on the participating watersheds that have received adequate funding to establish and implement the program.

[2011 c 360 § 10.]

36.70A.745

Statewide advisory committee — Membership.

(1)(a) From the nominations made under (b) of this subsection, the commission shall appoint a statewide advisory committee, consisting of: Two persons representing county government, two persons representing agricultural organizations, and two persons representing environmental organizations. The commission, in conjunction with the governor's office, shall also invite participation by two representatives of tribal governments.

(b) Organizations representing county, agricultural, and environmental organizations shall submit nominations of their representatives to the commission within ninety days of July 22, 2011. Members of the statewide advisory committee shall serve two-year terms except that for the first year, one representative from each of the sectors shall be appointed to the statewide advisory committee for a term of one year. Members may be reappointed by the commission for additional two-year terms and replacement members shall be appointed in accordance with the process for selection of the initial members of the statewide advisory committee.

(c) Upon notification of the commission by an appointed member, the appointed member may designate a person to serve as an alternate.

(d) The executive director of the commission shall serve as a nonvoting chair of the statewide advisory committee.

(e) Members of the statewide advisory committee shall serve without compensation and, unless serving as a state officer or employee, are not eligible for reimbursement for subsistence, lodging, and travel expenses under RCW 43.03.050 and 43.03.060.

(2) The role of the statewide advisory committee is to advise the commission and other agencies involved in development and operation of the program.

[2011 c 360 § 11.]

36.70A.750

Agricultural operators — Individual stewardship plan.

(1) Agricultural operators implementing an individual stewardship plan consistent with a work plan are presumed to be working toward the protection and enhancement of critical areas.

(2) If the watershed group determines that additional or different practices are needed to achieve the work plan's goals and benchmarks, the agricultural operator may not be required to implement those practices but may choose to implement the revised practices on a voluntary basis and is eligible for funding to revise the practices.

[2011 c 360 § 12.]

36.70A.755

Implementing the work plan.

In developing stewardship practices to implement the work plan, to the maximum extent practical the watershed group should:

(1) Avoid management practices that may have unintended adverse consequences for other habitats, species, and critical areas functions and values; and

(2) Administer the program in a manner that allows participants to be eligible for public or private environmental protection and enhancement incentives while protecting and enhancing critical area functions and values.

[2011 c 360 § 13.]

36.70A.760

Agricultural operators — Withdrawal from program.

An agricultural operator participating in the program may withdraw from the program and is not required to continue voluntary measures after the expiration of an applicable contract. The watershed group must account for any loss of protection resulting from withdrawals when establishing goals and benchmarks for protection and a work plan under RCW 36.70A.720.

[2011 c 360 § 14.]

36.70A.800

Role of growth strategies commission.

The growth strategies commission created by executive order shall:

(1) Analyze different methods for assuring that county and city comprehensive plans adopted under chapter 36.70A RCW are consistent with the planning goals under RCW 36.70A.020 and with other requirements of chapter 36.70A RCW;

(2) Recommend to the legislature and the governor by October 1, 1990, a specific structure or process that, among other things:

(a) Ensures county and city comprehensive plans adopted under chapter 36.70A RCW are coordinated and comply with planning goals and other requirements under chapter 36.70A RCW;

(b) Requires state agencies to comply with this chapter and to consider and be consistent with county and city comprehensive plans in actions by state agencies, including the location, financing, and expansion of transportation systems and other public facilities;

(c) Defines the state role in growth management;

(d) Addresses lands and resources of statewide significance, including to:

(i) Protect these lands and resources of statewide significance by developing standards for their preservation and protection and suggesting the appropriate structure to monitor and enforce the preservation of these lands and resources; and

(ii) Consider the environmental, economic, and social values of the lands and resources with statewide significance;

(e) Identifies potential state funds that may be withheld and incentives that promote county and city compliance with chapter 36.70A RCW;

(f) Increases affordable housing statewide and promotes linkages between land use and transportation;

(g) Addresses vesting of rights; and

(h) Addresses short subdivisions; and

(3) Develop recommendations to provide for the resolution of disputes over urban growth areas between counties and cities, including incorporations and annexations.

[1990 1st ex.s. c 17 § 86.]

36.70A.900

Severability — 1990 1st ex.s. c 17.

If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

[1990 1st ex.s. c 17 § 88.]

36.70A.901

Part, section headings not law — 1990 1st ex.s. c 17.

Part and section headings as used in this act do not constitute any part of the law.

[1990 1st ex.s. c 17 § 89.]

36.70A.902

Section headings not law — 1991 sp.s. c 32.

Section headings as used in this act do not constitute any part of the law.

[1991 sp.s. c 32 § 40.]

36.70A.903

Transfer of powers, duties, and functions.

(1) The powers, duties, and functions of the growth management hearings board are hereby transferred to the environmental and land use hearings office.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the growth management hearings board shall be delivered to the custody of the environmental and land use hearings office. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the growth management hearings board shall be made available to the environmental and land use hearings office. All funds, credits, or other assets held by the growth management hearings board shall be assigned to the environmental and land use hearings office.

(b) Any appropriations made to the growth management hearings board shall, on July 1, 2011, be transferred and credited to the environmental and land use hearings office.

(c) If any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the growth management hearings board are transferred to the jurisdiction of the environmental and land use hearings office. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the environmental and land use hearings office to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All existing rules and all pending cases before the growth management hearings board shall be continued and acted upon by the growth management hearings board located within the environmental and land use hearings office. All pending business, existing contracts, and obligations shall remain in full force and shall be performed by the environmental and land use hearings office.

(5) The transfer of the powers, duties, functions, and personnel of the growth management hearings board shall not affect the validity of any act performed before July 1, 2011.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of

financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

[2010 c 210 § 43.]

Notes:

Intent -- Effective dates -- Application -- Pending cases and rules -- 2010 c 210: See notes following RCW 43.21B.001.

36.70A.904

Conflict with federal requirements — 2011 c 360.

If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state.

[2011 c 360 § 21.]

Appendix III

Chapter 365-196 WAC

Growth Management Act

Part Eight – Development Regulations

WAC 365-196-840 – Concurrency

(1) Purpose.

- (a) The purpose of concurrency is to assure that those public facilities and services necessary to support development are adequate to serve that development at the time it is available for occupancy and use, without decreasing service levels below locally established minimum standards.
- (b) Concurrency describes the situation in which adequate facilities are available when the impacts of development occur, or within a specified time thereafter. Concurrency ensures consistency in land use approval and the development of adequate public facilities as plans are implemented, and it prevents development that is inconsistent with the public facilities necessary to support the development.
- (c) With respect to facilities other than transportation facilities counties and cities may fashion their own regulatory responses and are not limited to imposing moratoria on development during periods when concurrency is not maintained.

(2) Determining the public facilities subject to concurrency. Concurrency is required for locally owned transportation facilities and for transportation facilities of statewide significance that serve counties consisting of islands whose only connection to the mainland are state highways or ferry routes. Counties and cities may adopt a concurrency mechanism for other facilities that are deemed necessary for development. See WAC [365-196-415\(5\)](#).

(3) Establishing an appropriate level of service.

- (a) The concept of concurrency is based on the maintenance of specified levels of service with respect to each of the public facilities to which concurrency applies. For all such facilities, counties and cities should designate appropriate levels of service.
- (b) Level of service is typically set in the capital facilities element or the transportation element of the comprehensive plan. The level of service is used as a basis for developing the transportation and capital facilities plans.
- (c) Counties and cities should set level of service to reflect realistic expectations consistent with the achievement of growth aims. Setting levels of service too high could, under some regulatory strategies, result in no growth. As a deliberate policy, this would be contrary to the act.
- (d) Counties and cities should coordinate with and reach agreements with other affected purveyors or service providers when establishing level of service standards for facilities or services provided by others.

- (e) The level of service standards adopted by the county or city should vary based on the urban or rural character of the surrounding area and should be consistent with the land use plan and policies. The county or city should also balance the desired community character, funding capacity, and traveler expectations when adopting levels of service for transportation facilities. For example a plan that calls for a safe pedestrian environment that promotes walking or one that promotes development of a bike system so that biking trips can be substituted for auto trips may suggest using a level of service that includes measures of the pedestrian environment.
- (f) For transportation facilities, level of service standards for locally owned arterials and transit routes should be regionally coordinated. In some cases, this may mean less emphasis on peak-hour automobile capacity, for example, and more emphasis on other transportation priorities. Levels of service for highways of statewide significance are set by the Washington state department of transportation. For other state highways, levels of service are set in the regional transportation plan developed under RCW [47.80.030](#). Local levels of service for state highways should conform to the state and regionally adopted standards found in the statewide multimodal transportation plan and regional transportation plans. Other transportation facilities, however, may reflect local priorities.

(4) Measurement methodologies.

- (a) Depending on how a county or city balances these factors and the characteristics of travel in their community, a county or city may select different ways to measure travel performance. For example, counties and cities may measure performance at different times of day, week, or month (peak versus off-peak, weekday versus weekend, summer versus winter). A city or county may choose to focus on the total multimodal supply of infrastructure available for use during a peak or off-peak period. Counties and cities may also measure performance at different geographic scales (intersections, road or route segments, travel corridors, or travel zones or measure multimodal mobility within a district).
- (b) In urban areas, the department recommends counties and cities adopt methodologies that analyze the transportation system from a comprehensive, multimodal perspective, as authorized by RCW [36.70A.108](#). Multimodal level of service methodologies and standards should consider the needs of travelers using the four major modes of travel (auto, public transportation, bicycle, and pedestrian), their impacts on each other as they share the street or intersection, and their mode specific requirements for street and intersection design and operation.
- (c) Although level of service standards and measurement methodologies are interrelated, changes in methodology, even if they have an incidental effect on the resulting level of service for a particular facility, are not necessarily a change in the level of service standard.

(5) Concurrency regulations.

- (a) Each planning jurisdiction should produce a regulation or series of regulations which govern the operation of that jurisdiction's concurrency management system. This regulatory scheme will set forth the procedures and processes to be used to

determine whether relevant public facilities have adequate capacity to accommodate a proposed development. In addition, the scheme should identify the responses to be taken when it is determined that capacity is not adequate to accommodate a proposal. Relevant public facilities for these purposes are those to which concurrency applies under the comprehensive plan. Adequate capacity refers to the maintenance of concurrency.

- (b) Compliance with applicable environmental requirements, such as ambient air quality standards or water quality standards, should have been built into the determination of the facility capacities needed to accommodate anticipated growth.
- (c) The variations possible in designing a concurrency management system are many. However, such a system could include the following features:
 - (i) Capacity monitoring - a process for collecting and maintaining real world data on use for comparison with evolving public facility capacities in order to show at any moment how much of the capacity of public facilities is being used;
 - (ii) Capacity allocation procedures - a process for determining whether proposed new development can be accommodated within the existing or programmed capacity of public facilities. This can include preassigning amounts of capacity to specific zones, corridors or areas on the basis of planned growth. For any individual development this may involve:
 - (A) A determination of anticipated total capacity at the time the impacts of development occur.
 - (B) Calculation of how much of the total capacity will be used by existing developments and other planned developments at the time the impacts of development occur. If a local government does not require a concurrency certification or exempts small projects from the normal concurrency process, it should still calculate the capacity used and subtract that from the capacity available.
 - (C) Calculation of the amount of capacity available for the proposed development.
 - (D) Calculation of the impact on capacity of the proposed development, minus the effects of any mitigation provided by the applicant. (Standardized smaller developments can be analyzed based on predetermined capacity impact values.)
 - (E) Comparison of available capacity with project impact. For any project that places demands on public facilities, cities and counties must determine if levels of service will fall below locally established minimum standards.
 - (iii) Provisions for reserving capacity - A process of prioritizing the allocation of capacity to proposed developments. This process might include one of the following alternatives:

- (A) Setting aside a block or blocks of available or anticipated capacity for specified types of development fulfilling an identified public interest;
 - (B) Adopting a first-come, first-served system of allocation, dedicating capacity to applications in the order received; or
 - (C) Adopting a preference system giving certain categories or specified types of development preference over others in the allocation of available capacity.
- (6) Regulatory response to the absence of concurrency. The comprehensive plan should provide a strategy for responding when approval of any particular development would cause levels of service for concurrency to fall below the locally adopted standards. To the extent that any jurisdiction uses denial of development as its regulatory response to the absence of concurrency, consideration should be given to defining this as an emergency for the purposes of the ability to amend or revise the comprehensive plan.
- (a) In the case of transportation, an ordinance must prohibit development approval if the development causes the level of service on a locally owned transportation facility to decline below the standards adopted in the transportation element of the comprehensive plan unless improvements or strategies to accommodate the impacts of development are made concurrent with the development.
 - (i) These strategies may include increased public transportation service, ride sharing programs, demand management, and other transportation systems management strategies.
 - (ii) "Concurrent with development" means that improvements or strategies are in place at the time of development, or that a financial commitment is in place to complete the improvements or strategies within six years.
 - (b) If the proposed development is consistent with the land use element, relevant levels of service should be reevaluated.
 - (c) Other responses could include:
 - (i) Development of a system of deferrals, approving proposed developments in advance but deferring authority to construct until adequate public facilities become available at the location in question. Such a system should conform to and help to implement the growth phasing schedule contemplated in the land use and capital facilities elements of the plan.
 - (ii) Conditional approval through which the developer agrees to mitigate the impacts.

- (iii) Denial of the development, subject to resubmission when adequate public facilities are made available.
 - (iv) Redesign of the project or implementation of demand management strategies to reduce trip generation to a level that is within the available capacity of the system.
 - (v) Transportation system management measures to increase the capacity of the transportation system.
- (7) Form, timing and duration of concurrency approvals. The system should include provisions for how to show that a project has met the concurrency requirement, whether as part of another approval document (e.g., permit, platting decisions, planned unit development) or as a separate certificate of concurrency, possibly a transferable document. This choice, of necessity, involves determining when in the approval process the concurrency issue is evaluated and decided. Approvals, however made, should specify the length of time that a concurrency determination will remain effective, including requirements for development progress necessary to maintain approval.
- (8) Provisions for interjurisdictional coordination - SEPA consistency. Counties and cities should consider integrating SEPA compliance on the project-specific level with the case-by-case process for concurrency management.

[Statutory Authority: RCW [36.70A.050](#) and 36.70A.190. WSR 10-03-085, § 365-196-840, filed 1/19/10, effective 2/19/10.]

Appendix HHH

Spokane County Washington's Code of Ordinances

Title 46 Motor Vehicles

Chapter 46.80 Commute Trip Reduction

46.80.030 - CTR goals.

- A. Commute Trip Reduction Goals. The county's goals for reductions in the proportions of drive-alone commute trips and vehicle miles traveled per employee by affected employers in the county's jurisdiction, major employment installations, and other areas designated by the county are hereby established by the county's CTR plan incorporated by Section 46.80.020. These goals establish the desired level of performance for the CTR program in its entirety in the county.

The county will set the individual worksite goals for affected employers based on how the worksite can contribute to the county's overall goal established in the CTR plan. The goals will appear as a component of the affected employer's approved implementation plan outlined in Section 46.80.060.

- B. Commute Trip Reduction Goals for Employers.

- (1) The drive-alone and VMT goals for affected employers in the county are hereby established as set forth in the CTR plan incorporated by Section 46.80.020
- (2) If the goals for an affected employer or newly affected employer are not listed in the CTR plan, they shall be established by the county at a level designed to achieve the county's overall goals for the jurisdiction and other areas as designated by the county. The county shall provide written notification of the goals for each affected employer worksite by providing the information when the county reviews the employer's proposed program and incorporating the goals into the program approval issued by the county.

(Ord. No. 9-0448, § 3, 5-12-2009)

46.80.040 - Responsible county agency(ies).

The county commute trip reduction office, a section within the department of public works, division of engineering and roads, is responsible for implementing this chapter and the CTR plan. This responsibility may be exercised directly by county administrative staff or by contracting with another agency. The county engineer is designated as the responsible official.

(Ord. No. 9-0448, § 4, 5-12-2009)

46.80.050 - Applicability.

The provisions of this chapter shall apply to any affected employer at any single worksite within the geographic limits of the CTR plan adopted in Section 46.80.020 above. Employees will only be counted at their primary area worksite. It is the responsibility of the employer to notify the county of a change in status as an affected employer.

- A. Notification of Applicability.

1. In addition to the county's established public notification for adoption of an ordinance, a notice of availability of a summary of this chapter, a notice of the requirements and criteria for affected employers to comply with this chapter, and subsequent revisions shall be published at least once in the county's official newspaper not more than thirty days after passage of this chapter or revisions.
2. Affected employers located in the county are to receive written notification that they are subject to this chapter. Such notice shall be addressed to the company's chief executive officer, senior official, or CTR program manager or registered agent at the worksite. Such

notification shall provide ninety days for the affected employer to perform a baseline measurement consistent with the measurement requirements specified by the county.

3. Affected employers that, for whatever reason, do not receive notice within thirty days of passage of the ordinance from which this chapter derives and are either notified or identify themselves to the county within ninety days of the passage of the ordinance from which this chapter derives will be granted an extension to assure up to ninety days within which to perform a baseline measurement consistent with the measurement requirements specified by the county.
4. Affected employers that have not been identified or do not identify themselves within ninety days of the passage of the ordinance from which this chapter derives and do not perform a baseline measurement consistent with the measurement requirements specified by the county within ninety days from the passage of the ordinance from which this chapter derives are in violation of this chapter.
5. If an affected employer has already performed a baseline measurement, or an alternative acceptable to the county, under previous iterations of this chapters, the employer is not required to perform another baseline measurement.

B. Newly Affected Employers.

1. Employers meeting the definition of "affected employer" in this chapter must identify themselves to the county within ninety days of either moving into the boundaries outlined in the CTR plan adopted in Section 46.80.020 above or growing in employment at a worksite to one hundred or more affected employees. Employers who do not identify themselves within ninety calendar days are in violation of this chapter.
2. Newly affected employers identified as such shall be given ninety days to perform a baseline measurement consistent with the measurement requirements specified by the county. Employers who do not perform a baseline measurement within ninety days of receiving written notification that they are subject to this chapter are in violation of this chapter.
3. Not more than ninety days after receiving written notification of the results of the baseline measurement, the newly affected employer shall develop and submit a CTR program to the county. The program will be developed in consultation with county commute trip reduction office staff (Section 46.80.040 above) to be consistent with the goals of the CTR plan adopted in Section 46.80.020 above. The program shall be implemented not more than ninety days after approval by the county. Employers who do not implement an approved CTR program according to this schedule are in violation of this chapter and subject to the penalties outlined in Section 46.80.090.D below.

C. Change in Status as an Affected Employer. Any of the following changes in an employer's status will change the employer's CTR program requirements:

1. If an employer initially designated as an affected employer no longer employs one hundred or more affected employees and expects not to employ one hundred or more affected employees for the next twelve months, that employer is no longer an affected employer. It is the responsibility of the employer to notify and provide documentation to the county that it is no longer an affected employer. The burden of proof lies with the employer.
2. If the same employer returns to the level of one hundred or more affected employees within the same twelve-month period, that employer will be considered an affected employer for the entire twelve months and will be subject to the same program requirements as other affected employers.
3. If the same employer returns to the level of one hundred or more affected employees twelve or more months after its change in status to an "unaffected" employer, that employer shall be treated as a newly affected employer and will be subject to the same program requirements as other newly affected employers.

46.80.060 - Requirements for Employers - RCW 70.94.531.

An affected employer is required to make a good faith effort, as defined in RCW 70.94.534(2) and this chapter, to develop and implement a CTR program that will encourage its employees to reduce VMT per employee and drive alone commute trips. The CTR program must include the mandatory elements as described below.

- A. **Mandatory Program Elements.** Each employer's CTR program shall include the following mandatory elements:
 1. **Employee Transportation Coordinator (ETC).** The employer shall designate an employee transportation coordinator (ETC) to administer the CTR program. The ETC and/or designee's name, location, and telephone number must be prominently displayed physically or electronically at each affected worksite. The ETC shall oversee all elements of the employer's CTR program and act as liaison between the employer and the county. The objective is to have an effective transportation coordinator presence at each worksite; an affected employer with multiple sites may have one ETC for all sites. The transportation coordinator must complete the basic ETC training course offered by the county within six months of assuming "designated transportation coordinator" status.
 2. **Information Distribution.** Information about alternatives to drive alone commuting as well as a summary of the employer's CTR program shall be provided to employees at least once a year and to new employees at the time of hire. The summary of the employer's CTR program shall also be submitted to the county with the employer's program description and regular report.
- B. **Additional Program Elements.** In addition to the specific program elements described above, the employer's CTR program shall include additional elements as needed to meet CTR goals. Elements may include, but are not limited to, two or more of the following:
 - a. Provision of preferential parking for high-occupancy vehicles;
 - b. Reduced parking charges for high-occupancy vehicles;
 - c. Instituting or increasing parking charges for drive alone commuters;
 - d. Provision of commuter ride matching services to facilitate employee ridesharing for commute trips;
 - e. Provision of subsidies for rail, transit, or vanpool fares and/or transit passes;
 - f. Provision of vans or buses for employee ridesharing;
 - g. Provision of subsidies for carpools, walking, bicycling, teleworking, or compressed schedules;
 - h. Provision of incentives for employees that do not drive alone to work;
 - i. Permitting the use of the employer's vehicles for carpooling or vanpooling;
 - j. Permitting flexible work schedules to facilitate employees' use of transit, carpools, or vanpools;
 - k. Cooperation with transportation providers to provide additional regular or express service to the worksite;
 - l. Construction of special loading and unloading facilities for transit, carpool, and vanpool users;
 - m. Provision of bicycle parking facilities, lockers, changing areas and showers for employees who bicycle or walk to work;

- n. Provision of a program of parking incentives such as a rebate for employees who do not use the parking facilities;
 - o. Establishment of a program to permit employees to work part-time or full-time at home or at an alternative worksite closer to their homes which reduces commute trips;
 - p. Establishment of a program of alternative work schedules, such as a compressed work week, which reduces commute trips;
 - q. Implementation of other measures designed to facilitate the use of high-occupancy vehicles, such as on-site daycare facilities, emergency taxi services, or guaranteed ride home programs;
 - r. Charging employees for parking and/or the elimination of free parking; and
 - s. Other measures that the employer believes will reduce the number and length of commute trips made to the site.
- C. CTR program Report and Description. Affected employers shall review their program and submit a yearly progress report with the county in accordance with the format provided by the county.

The CTR program description outlines the strategies to be undertaken by an employer to achieve the commute trip reduction goals for the reporting period. Employers are encouraged to consider innovative strategies and combine program elements in a manner that will best suit their location, site characteristics, business type, and employees' commuting needs. Employers are further encouraged to cooperate with each other to implement program elements.

At a minimum, the employer's CTR program report and description must include: 1) a general description of the employment site location, transportation characteristics, employee parking availability, on-site amenities and surrounding services, 2) the number of employees affected by the CTR program and the total number of employees at the site; 3) documentation of compliance with the mandatory CTR program elements (as described in Subsection 46.80.060.A); 4) description of any additional elements included in the employer's CTR program (as described Subsection 46.80.060.B); and 5) a statement of organizational commitment to provide appropriate resources to the program to meet the employer's established goals.

- D. Biennial Measurement of Employee Commute Behavior. In addition to the baseline measurement, employers shall conduct a program evaluation as a means of determining worksite progress toward meeting CTR goals. As part of the program evaluation, the employer shall distribute and collect commute trip reduction program employee questionnaires (surveys) at least once every two years and strive to achieve at least a seventy percent response rate from employees at the worksite.

(Ord. No. 9-0448, § 6, 5-12-2009)

46.80.070 - Record Keeping.

Affected employers shall maintain a copy of their approved CTR program description and report, their CTR program employee questionnaire results and all supporting documentation for the descriptions and assertions made in any CTR Report to the county for a minimum of forty-eight months. The county and the employer shall agree on the record keeping requirements as part of the accepted CTR program.

(Ord. No. 9-0448, § 7, 5-12-2009)

46.80.080 - Schedule and Process for CTR program Description and Report.

- A. Document Review. The county shall provide the employer with written notification if a CTR program is deemed unacceptable. The notification must give cause for any rejection. If the employer receives no written notification of extension of the review period of its CTR program or comment on the CTR program or annual report within ninety days of submission, the employer's program or annual report

is deemed accepted. The county may extend the review period up to ninety days. The implementation date for the employer's CTR program will be extended an equivalent number of days.

- B. Schedule. Upon review of an employer's initial CTR program, the county shall establish the employer's regular reporting date. This report will be provided in a form provided by the county consistent with Section 46.80.060.C above.
- C. Modification of CTR program Elements. Any affected employer may submit a request to the county for modification of CTR requirements. Such request may be granted if one of the following conditions exist:
 - 1. The employer can demonstrate it would be unable to comply with the CTR program elements for reasons beyond the control of the employer; or
 - 2. The employer can demonstrate that compliance with the program elements would constitute an undue hardship.

The county may ask the employer to substitute a program element of similar trip reduction potential rather than grant the employer's request.

- D. Extensions. An employer may request additional time to submit a CTR program description and report, or to implement or modify a program. Such requests shall be via written notice at least thirty days before the due date for which the extension is being requested. Extensions not to exceed ninety days shall be considered for reasonable causes. The county shall grant or deny the employer's extension request by written notice within ten working days of its receipt of the extension request. If there is no response issued to the employer, an extension is automatically granted for thirty days. Extension shall not exempt an employer from any responsibility in meeting program goals. Extension granted due to delays or difficulties with any program element(s) shall not be cause for discontinuing or failing to implement other program elements. An employer's reporting date shall not be adjusted permanently as a result of these extensions. An employer's annual reporting date may be extended at the discretion of the county.
- E. Implementation of employer's CTR program. Unless extensions are granted, the employer shall implement its approved CTR program, including approved program modifications, not more than ninety days after receiving written notice from the county that the program has been approved or with the expiration of the program review period without receiving notice from the county.

(Ord. No. 9-0448, § 8, 5-12-2009)

46.80.090 - Enforcement.

- A. Compliance. For purposes of this section, compliance shall mean:
 - 1. Fully implementing in good faith all mandatory program elements as well as provisions in the approved CTR program description and report and satisfying the requirements of this chapter.
 - 2. Providing a complete CTR program description and report on the regular reporting date; and
 - 3. Distributing and collecting the CTR program employee questionnaire during the scheduled survey time period.
- B. Program Modification Criteria. The following criteria for achieving goals for VMT per employee and proportion of drive alone trips shall be applied in determining requirements for employer CTR program modifications:
 - 1. If an employer meets either or both goals, the employer has satisfied the objectives of the CTR plan and will not be required to improve its CTR program;
 - 2. If an employer makes a good faith effort, as defined in RCW 70.94.534(2) and this chapter, but has not met or is not likely to meet the applicable drive alone or VMT goal, the county may deem it necessary to make required modifications to its CTR program while working

collaboratively with the employer. After agreeing on modifications, the employer shall submit a revised CTR program description to the county for approval within thirty days of reaching agreement.

3. If an employer fails to make a good faith effort as defined in RCW 70.94.534(2) and this chapter, and fails to meet the applicable drive alone or VMT reduction goal, the county shall direct the employer to revise its program to the recommended modifications, the employer shall submit a revised CTR program description and report, including the requested modifications or equivalent measures, within thirty days of receiving written notice to revise its program. The county shall review the revisions and notify the employer of acceptance or rejection of the revised program. If a revised program is not accepted, the county will send written notice to that effect to the employer within thirty days and, if necessary, require the employer to attend a conference with program review staff for the purpose of reaching a consensus on the required program. A final decision on the required program will be issued in writing by the county within ten working days of the conference.

C. Violations. The following constitute violations if the applicable deadlines are not met:

1. Failure to self identify as an affected employer;
2. Failure to perform a baseline measurement, including:

Employers notified or that have identified themselves to the county within ninety days of the ordinance from which this chapter derives being adopted and that do not perform a baseline measurement consistent with the requirements specified by the county within ninety days from the notification or self-identification;

- a) Employers not identified or self-identified within ninety days of the ordinance from which this chapter derives being adopted and that do not perform a baseline measurement consistent with the requirements specified by the county within ninety days from the adoption of the ordinance from which this chapter derives;

3. Failure to develop and/or submit on time a complete CTR program;
4. Failure to implement an approved CTR program, unless the program elements that are carried out can be shown through quantifiable evidence to meet or exceed VMT and drive alone goals as specified in this chapter;
5. Submission of false or fraudulent data in response to survey requirements;
6. Failure to make a good faith effort, as defined in RCW 70.94.534 and this chapter(2); or
7. Failure to revise an unacceptable CTR program as defined in RCW 70.94.534(4) and this chapter.

D. Penalties. Any affected employer violating any provision of this chapter shall be guilty of a civil infraction and subject to the imposition of civil penalties.

1. Whenever the county makes a determination that the affected employer is in violation of this chapter, the county shall issue a written notice and order and send it registered mail, return receipt requested, to the chief executive officer or highest ranking official at the worksite. The notice and order shall contain:
 - a) The name and address of the affected employer.
 - b) A statement that the county has found the affected employer to be in violation of this chapter with a brief and concise description of the conditions found to be in violation.
 - c) A statement of the corrective action required to be taken. If the county has determined that corrective action is required, the order shall require that all corrective action be completed by a date stated in the notice.
 - d) A statement specifying the amount of any civil penalty assessed on account of the violation; and

- e) A statement advising that the order shall become final unless, no later than ten working days after the notice and order are served, any person aggrieved by the order requests in writing an appeal before the designated hearing examiner as well as the name and mailing address of the person with whom the appeal must be filed.
2. Each day of failure to implement the program or violating any provision of this chapter shall constitute a separate violation subject to penalties as described in RCW 7.80. The penalty for a first violation shall be one hundred dollars per working day. The penalty for subsequent violations will be two hundred fifty dollars per working day for each violation.
3. Penalties will begin to accrue fifteen working days following the official date of notice from the county. In the event an affected employer appeals the imposition of penalties, the penalties will not accrue during the appeals process. Should the designated hearing examiner decide in favor of the appellant, all or a portion of the monetary penalties may be dismissed by the designated hearing examiner.
4. No affected employer with an approved CTR program which has made a good faith effort may be held liable for failure to reach the applicable drive alone or VMT goal.
5. An affected employer shall not be liable for civil penalties if failure to implement an element of a CTR program was the result of an inability to reach agreement with a certified collective bargaining agent under applicable laws where the issue was raised by the employer and pursued in good faith. Unionized employers shall be presumed to act in good faith compliance if they:
 - a) Propose to a recognized union any provision of the employer's CTR program that is subject to bargaining as defined by the National Labor Relations Act; and
 - b) Advise the union of the existence of the statute and the mandates of the CTR program approved by the county and advise the union that the proposal being made is necessary for compliance with state law (RCW 70.94.531).

(Ord. No. 9-0448, § 9, 5-12-2009)

46.80.100 - Exemptions and Goal Modifications.

- A. **Worksite Exemptions.** An affected employer may request the county to grant an exemption from all CTR program requirements or penalties for a particular worksite. The employer must demonstrate that it would experience undue hardship in complying with the requirements of this chapter as a result of the characteristics of its business, its work force, or its location(s). An exemption may be granted if and only if the affected employer demonstrates that it faces extraordinary circumstances, such as bankruptcy or a protracted labor strike, and is unable to implement any measures that could reduce the proportion of drive alone trips and VMT per employee. Exemptions may be granted by the county at any time based on written notice of request provided by the affected employer. The notice should clearly explain the conditions for which the affected employer is seeking an exemption from the requirements of the CTR program. The county shall grant or deny the request within thirty days of receipt of the request. The county shall review annually all employers receiving exemptions, and shall determine whether the exemption will be in effect during the following program year.
- B. **Employee Exemptions.** Specific employees or groups of employees who are required to drive alone to work as a condition of employment may be exempted from a worksite's CTR program. Exemptions may also be granted for employees who work variable shifts throughout the year and who do not rotate as a group to identical shifts. The county will use the criteria identified in the CTR board administrative guidelines to assess the validity of employee exemption requests. The county shall grant or deny the request within thirty days of receipt of the request. The county shall review annually all employee exemption requests, and shall determine whether the exemption will be in effect during the following program year.
- C. **Modification of CTR Program Goals.**

1. An affected employer may request that the county modify its worksite CTR program goals. Such requests shall be filed in writing at least sixty days prior to the date the worksite is required to submit its program description or annual report. The goal modification request must clearly explain why the worksite is unable to achieve the applicable goal. The worksite must also demonstrate that it has implemented all of the elements contained in its approved CTR program.
2. The county will review and grant or deny requests for goal modifications in accordance with procedures and criteria identified in the CTR board guidelines.
3. An employer may not request a modification of the applicable goals until one year after the county's approval of its initial program description or annual report.

(Ord. No. 9-0448, § 10, 5-12-2009)

46.80.110 - Appeals.

Any affected employer may appeal administrative decisions regarding exemptions, modification of goals, CTR program elements, and violations and penalties to the designated hearing examiner. Appeals shall be filed within fifteen working days of the administrative decision. All appeals shall be filed with the clerk of the board of county commissioners of the county with offices at West 1116 Broadway Avenue, Spokane, Washington 99260. All appeals shall be in writing and must specify the decision being appealed as well as the specific basis for the appeal.

- A. Criteria on Appeals. The designated hearing examiner, upon notification of a timely appeal by the clerk of the board of county commissioners, will evaluate the appeal to determine if the decision is consistent with the CTR law and the CTR guidelines. The designated hearing examiner may schedule a meeting between the affected employer and the county. The decision of the designated hearing Examiner shall be reduced to writing. It shall be sent by certified mail, return receipt requested, to the affected employer.
- B. Appeal to the Board of County Commissioners. Any affected employer may appeal the written decision of the designated hearing examiner to the board of county commissioners. Appeals shall be filed within fifteen working days of the designated hearing examiner's written decision. All appeals shall be filed with the clerk of the board of county commissioners.

The board of county commissioners shall consider only testimony and written documentation submitted to the designated hearing examiner on any matter appealed to the board. No additional evidence shall be considered by the board of county commissioners.

Upon receipt of an appeal, the board of county commissioners will set a date no later than thirty calendar days, at which they will render their written decision on the appeal.

- C. Judicial Appeals. Any decision of the board of county commissioners, as provided for in Subsection B herein, shall be final and conclusive, unless not later than twenty calendar days from the date of the written decision, the affected employer appeals to the superior court pursuant to RCW 36.32.330.

(Ord. No. 9-0448, § 11, 5-12-2009)

Chapter 46.84 - LOCOMOTIVE HORNS

Sections:

46.84.010 - Definitions.

For the purpose of this chapter, the following definitions shall apply:

- (1) "Locomotive horn" means a train-borne audible warning device meeting standards specified by the United States Secretary of the Department of Transportation.
- (2) "Supplemental safety measure" means a safety device defined in P.L. 103-440, Section 20153(a)(3), as that law existed on November 2, 1994.

Section 20153(a)(3) defines "supplementary safety measure" as follows:

(3) the term "supplementary safety measure" refers to a safety system or procedure, provided by the appropriate traffic control authority or law enforcement authority responsible for safety at the highway-rail grade crossing, that is determined by the Secretary to be an effective substitute for the locomotive horn in the prevention of highway-rail casualties. A traffic control arrangement that prevents careless movement over the crossing (e.g., as where adequate median barriers prevent movement around crossing gates extending over the full width of the lanes in the particular direction of travel), and that conforms to standards prescribed by the Secretary under this subsection, shall be deemed to constitute a supplementary safety measure. The following do not, individually or in combination, constitute supplementary safety measures within the meaning of this subsection: standard traffic control devices or arrangements such as reflectorized crossbucks, stop signs, flashing lights, flashing lights with gates that do not completely block travel over the line of railroad, or traffic signals.

A supplemental safety measure that prevents careless movement over the crossing (e.g., as where adequate median barriers prevent movement around crossing gates extending over the full width of the lanes in a particular direction of travel), shall be deemed to conform to those standards required under P.L. 103-440 unless specifically rejected by emergency order issued by the United States Secretary of the Department of Transportation.

In addition to these definitions, the meanings ascribed to words and phrases in Chapter 81.48 RCW, as now or hereafter amended, insofar as applicable, shall have full force and effect with respect to the terms within this chapter.

(Res. 95-1300 § 1, 1995)

46.84.020 - Sounding of locomotive horns prohibited.

No railroad company or officer or agent thereof, or any other person shall sound a locomotive horn at a crossing equipped with supplemental safety measures located within the unincorporated areas of Spokane County or eighty rods from such crossing, or continue the sounding of a locomotive horn until such locomotive shall have crossed such crossing, unless such sound is necessary as a result of an imminent danger to human life or safety.

(Res. 95-1300 § 2, 1995)

Article 5. Employee Parking

Section 43845.

(a) In any air basin designated as a nonattainment area pursuant to Section 39608, each employer of 50 persons or more who provides a parking subsidy to employees, shall offer a parking cash-out program. "Parking cash-out program" means an employer-funded program under which an employer offers to provide a cash allowance to an employee equivalent to the parking subsidy that the employer would otherwise pay to provide the employee with a parking space.

(b) A parking cash-out program may include a requirement that employee participants certify that they will comply with guidelines established by the employer designed to avoid neighborhood parking problems, with a provision that employees not complying with the guidelines will no longer be eligible for the parking cash-out program.

(c) As used in this section, the following terms have the following meanings:

(1) "Employee" means an employee of an employer subject to this section.

(2) "Parking subsidy" means the difference between the out-of-pocket amount paid by an employer on a regular basis in order to secure the availability of an employee parking space not owned by the employer and the price, if any, charged to an employee for use of that space.

(d) Subdivision (a) does not apply to any employer who, on or before January 1, 1993, has leased employee parking, until the expiration of that lease or unless the lease permits the employer to reduce, without penalty, the number of parking spaces subject to the lease.

(e) It is the intent of the Legislature, in enacting this section, that the cash-out requirements apply only to employers who can reduce, without penalty, the number of paid parking spaces they maintain for the use of their employees and instead provide their employees the cash-out option described in this section.

(f) (1) The state board may impose the civil penalty described in Section 43016 for a violation of this section.

(2) (A) A city, county, or air district may also adopt, by ordinance or resolution, a penalty or other mechanism to ensure that an employer within the jurisdiction of that city, county, or air district is in compliance with this section.

(B) If a city, county, or air district establishes a penalty, the governing body shall also establish procedures for providing notice to employers that are in violation of this section and for appeal by the employer of any penalty imposed.

(C) If a city, county, or air district establishes a penalty pursuant to this paragraph, a penalty may be imposed on an employer pursuant to paragraph (1) or this paragraph, but not both. If a penalty is imposed on an employer pursuant to both paragraph (1) and this paragraph, only the penalty imposed by the state board shall apply.