

ORDINANCE NO. _____

AN ORDINANCE AMENDING SPOKANE MUNICIPAL CODE SECTION 17D.010.020; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Spokane is in the process of implementing transportation impact fees as authorized pursuant to Chapter 36.70A RCW (the “Growth Management Act” or “Act”) and RCW 82.02.050 *et seq* (“Impact Fees”); and

WHEREAS, the Act requires the City to 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 City’s comprehensive plan, unless transportation improvements or strategies to accommodate the impacts of development are made concurrent with the development; and

WHEREAS, pursuant to the Act, “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; and

WHEREAS, the funded projects listed in the City’s Six-Year Street Plan, which is part of the capital facilities element of the City’s capital facilities plan, are projects for which a financial commitment is in place to complete the improvements or strategies within six years; and

WHEREAS, Impact Fees constitute assured funding that shall be payable as a result of development approval, which provide a basis for strengthening the financial commitment to build those projects that are set forth in the funded section of the City’s Six-Year Street Plan; and

WHEREAS, in recognition that Impact Fees represent a source of assured funding for transportation projects that will satisfy concurrency, the City finds that certain amendments to the City’s concurrency ordinance are warranted to reflect the financial commitment represented by Impact Fees;

Now, Therefore

The City of Spokane does ordain:

Section 1 - Findings of Fact. That the preambles to this Ordinance are adopted as the City Council’s findings in support of the land use regulations adopted hereunder.

Section 2 – Amendment of SMC 17D.010.020. That SMC 17D.010.020 is amended as follows:

Section 17D.010.020 Concurrency Test

A. Application.

All development permit applications are subject to a concurrency test except those exempted in SMC 17D.010.030. If a concurrency test is completed for the preliminary plat application, no concurrency test shall be required for the final plat application.

B. Procedures.

The concurrency test will be performed in the processing of the development permit and conducted by the appropriate facility and service providers.

1. The planning department shall provide the overall coordination of the concurrency test by notifying the facility and service providers of all applications (not including applications for building permits which shall be processed and coordinated by the building department in a manner consistent with this chapter) requiring a concurrency test as set forth in subsection (A) of this section; notifying the facility and service providers of all exempted applications which use capacity as set forth in SMC 17G.060.090(C); notifying the applicant of the test results; notifying the facility and service providers of the final outcome (approval or denial) of the development permit; and notifying the facility and service providers of any expired development permits or discontinued certificates of capacity. Failure by the notified facility and service provider to respond shall be construed as a finding that concurrency is met.
2. All facility and service providers shall be responsible for maintaining and monitoring their available and planned capacity.
3. The facility and service providers shall be responsible for annually reporting to the planning department the total available and planned capacity of their facility or service as of the end of each calendar year. Such reporting shall be made no later than July 1st for inclusion in the amendment process of the City of Spokane Comprehensive Plan.

C. Test.

Development applications that would result in a reduction of a level of service below the minimum level of service standard cannot be approved. For public water, public wastewater (sewer and stormwater), solid waste disposal and recycling only available capacity will be used in the concurrency test. For ~~transportation~~, police protection, fire protection,

schools, parks and recreation and libraries available and planned capacity will be used in conducting the concurrency test. For transportation, planned capacity, including without limitation projects included in the funded portion of the City's Six-Year Street Plan, as amended from time to time, will be used in conducting the concurrency test.

1. If the capacity of concurrency facilities, either existing or as planned, is equal to or greater than the capacity required by the development permit ~~to~~, the concurrency test is passed. A certificate of capacity will be issued according to the provisions of SMC 17D.010.030.
2. If the concurrency test is not passed, the applicant may:
 - a. accept a ninety-day reservation of concurrency facilities that exist and modify the application to reduce the need for concurrency facilities that do not exist;
 - b. accept a ninety-day reservation of concurrency facilities that exist and demonstrate to the service provider's satisfaction that the development will have a lower need for capacity than usual and, therefore, capacity is adequate;
 - c. accept a ninety-day reservation of concurrency facilities that exist and arrange with the service provider for the provision of the additional capacity of concurrency facilities required; or
 - d. accept a ninety-day reservation of concurrency facilities that exist and appeal the results of the concurrency test to the hearing examiner in accordance with the provisions of SMC 17D.010.050. The ninety-day reservation period does not include the time between the filing of the appeal and the date that the hearing examiner files their decision on the appeal..

D. Concurrency Inquiry Application.

An applicant may inquire whether or not concurrency facilities exist without an accompanying request for a development permit. As set forth in SMC 8.02.0696, a fee may be charged for such concurrency test. Any available capacity cannot be reserved. A certificate of capacity will only be issued in conjunction with a development permit approval as outlined in SMC 17D.010.030.

Section 3 - Severability. If any provision of this ordinance, or its application to any person, entity or circumstance is for any reason held invalid, the remainder of the ordinance, or the application of the provisions to other

persons, entities or circumstances, is not effected.

Passed by the City Council on _____

Council President

Attest:

Approved as to form:

City Clerk

City Attorney

Dennis P. Hession, Mayor

Date