

# CLARK COUNTY STAFF REPORT

**DEPARTMENT:** Public Works/ Transportation Division

**DATE:** October 25, 2016

**REQUESTED ACTION:** Approve a time extension of Emergency Ordinance 2016-08-12 for six (6) months to allow staff adequate time to develop corrections to the concurrency standards.

\_\_\_ Consent    X Hearing    \_\_\_ County Manager

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## **PUBLIC WORKS GOALS:**

- Provide safe and efficient transportation systems in Clark County
- Create and maintain a vibrant system of parks, trails, and green spaces
- Continue responsible stewardship of public funds
- Promote family-wage job creation and economic development to support a thriving community
- Maintain a healthy, desirable quality of life
- Increase partnerships and foster an engaged, informed community
- Cultivate a nimble, responsive work force
- Make Public Works a great place to work

## **BACKGROUND**

Clark County Code 40.350.020 Transportation Concurrency Management System, implements the requirements found in RCW 36.70A.070 that establish level of service standards for arterial and transit routes. This code section also ensures that the level of service standards are met or reasonably funded prior to or concurrent with new development approval. Concurrency code amendments adopted by the BOCC in 2010 allowed exemptions to be applied to regionally significant unsignalized intersections that may not achieve required level of service standards. Through the application of these exemptions, developments could be approved even though the regionally significant stop controlled intersections failed to achieve required level of service standards.

## **COUNCIL POLICY IMPLICATIONS**

On August 30, 2016, Public Works Staff presented an interim zoning ordinance relating to land use, suspending an exemption to the Transportation Concurrency Standards under CCC 40.350.020 to the Board of County Councilors. The board approved an emergency Ordinance 2016-08-12 on August 30, 2016. All interim ordinances require a 15 day public notice and a public hearing to be held within 60 days in order to take testimony on the topic and make a decision. With no council action, the ordinance expires. However, the council is allowed to extend the emergency ordinance provided there is a work plan in place to resolve the issue. Staff is asking for 6 months to complete outreach with the Development Engineering Advisory Board (DEAB) and Planning Commission (PC), as well as, the public.

The immediate suspension of the exemptions was necessary, due to Washington's vesting laws, to provide time to reevaluate the road standards and protect public health and safety. Without the ordinance, it is possible that developments could use the provision to claim the de minimis exemption if left in place. They could potentially be able to get approval for additional residences, sending trips to failed intersections without mitigating for those impacts.

## **ADMINISTRATIVE POLICY IMPLICATIONS**

None.

PW16-125

**COMMUNITY OUTREACH**

None

**BUDGET IMPLICATIONS**

YES	NO	
X		Action falls within existing budget capacity.
	X	Action falls within existing budget capacity but requires a change of purpose within existing appropriation
	X	Additional budget capacity is necessary and will be requested at the next supplemental. If YES, please complete the budget impact statement. If YES, this action will be referred to the county council with a recommendation from the county manager.

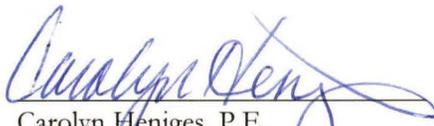
**BUDGET DETAILS**

Local Fund Dollar Amount	
Grant Fund Dollar Amount	
Account	County Road Fund
Company Name	

**DISTRIBUTION:**

Board staff will post all staff reports to The Grid. <http://www.clark.wa.gov/thegrid/>

**Attachments:** Proposed resolution, Emergency Ordinance 2016-08-12, Notice of Hearing

  
 Carolyn Heniges, P.E.  
 Transportation Division Manager

  
 Heath H. Henderson, P.E.  
 Public Works Director/County Engineer

  
**APPROVED:**  
 CLARK COUNTY, WASHINGTON  
 BOARD OF COUNTY COUNCILORS  
 DATE: Oct. 25, 2016  
 SR# \_\_\_\_\_



ORDINANCE NO. 2016-10-11

An emergency interim zoning ordinance relating to land use, extending Ord. 2016-08-12 that suspended one provision of the exemption to the Concurrency Standards under CCC 40.350.020.

1           WHEREAS, the Council finds and concludes that Clark County code attempts to delay  
2 development in areas served by roads failing concurrency until the condition can be improved or  
3 mitigated; and

4           WHEREAS, recent amendments applied to intersections may not achieve that goal; and,

5           WHEREAS, developments may be approved, through exemptions in the Road Standards,  
6 even though served by roads that have failed to demonstrate acceptable levels of service; and

7           WHEREAS, the continued suspension of these exemptions is necessary, due to  
8 Washington's vesting laws, to provide time to reevaluate the road standards, receive comments  
9 from the Development and Engineering Advisory Board and the Planning Commission to protect  
10 the public health and safety; and

11           WHEREAS, RCW 36.70A.390 and RCW 35.63.200 authorize the Board to adopt an  
12 interim zoning ordinance without holding a public hearing, provided, a duly-noticed public  
13 hearing is held within 60 days of adoption; and

14           Whereas, the Board is considering this interim ordinance at a duly advertised public  
15 hearing to following the receipt of testimony, find and conclude that extension of this interim  
16 Ordinance will further the public health, safety, and welfare; it is now, therefore,

17           ORDERED, RESOLVED AND DECREED BY THE BOARD OF COUNTY  
18 COUNCILORS OF CLARK COUNTY, STATE OF WASHINGTON, AS FOLLOWS:

19           **Section 1. Findings.** RCW 35.63.200 authorizes adoption of interim zoning

20 measures with certain limitations. In compliance with the requirements of this statute, the  
21 County Councilors adopt as findings the pronouncements contained in the above recital  
22 provisions. Following the duly advertised public hearing, the Councilors find and conclude that it  
23 is appropriate to extend Interim Ordinance No. 2016-08-12 as set out below.

24 **Section 2. Amendatory.** Sec. 1 (Ex. A) of Ord. 2000-10-03, as most recently  
25 amended by Ordinance 2014-08-09 and codified as 40.350.020, are each amended and extended  
26 to read:

27 **40.350.020 Transportation Concurrency Management System**

28 A. Purpose.

29 This section implements the requirements in RCW 36.70A.070 that counties:  
30

- 31 1. Establish level of service standards for arterial and transit routes; and
- 32 33 2. Ensure that such standards are met or reasonably funded before new development  
34 is approved.

35  
36 B. Applicability.

37 This section applies to applications for subdivision, short subdivision, conditional use  
38 permit approvals, and site plan review, except for those site plan reviews for unoccupied utility  
39 and wireless communication facilities which have a potential vehicular impact on the level of  
40 service of a segment or intersection of either:

- 41 42 1. Any county roadway with a comprehensive plan functional classification of  
43 arterial or collector; or
- 44 45 2. Any state highway of regional significance.

46  
47 C. Review Authority.

48 The review authority shall approve, approve with conditions, or deny proposed  
49 developments in accordance with the provisions of this section.

50  
51 D. Transportation Impact Study.

52 1. A transportation impact study shall be required for all development applications  
53 in which the proposed development is projected to have an impact upon any affected  
54 transportation corridor or intersection of regional significance, unless the development  
55 application is exempt from the provisions of this section as provided for in Section  
56 40.350.020(D) (7), or the requirement for a study has been waived by the Public Works Director.  
57

58 2. A transportation impact study shall include, at a minimum, an analysis of the  
59 following elements:  
60

61 a. Trip generation, modal split, distribution, and assignment for the proposed  
62 development; and  
63

64 b. An analysis of the projected impact of the proposed development upon the  
65 current operating level and safety of affected transportation corridors and  
66 intersections of regional significance. The analysis shall also include an  
67 accounting of trips assigned to all collector and arterial roadways.  
68

69 3. A transportation impact study shall be prepared by and/or under the supervision of  
70 a registered professional engineer in the state of Washington.  
71

72 4. A transportation impact study shall be based on traffic counts obtained within  
73 twelve (12) months of the fully complete date of the development application as determined  
74 under Sections 40.510.010(B), 40.510.020(C), and 40.51.030(C). The traffic counts shall reflect  
75 representative traffic conditions on collector and arterial roadways, and at intersections of  
76 regional significance. Intersections of regional significance are those intersections where at least  
77 three (3) legs are collector or arterial classification roadways.  
78

79 5. A transportation impact study shall not be required to analyze impacts on affected  
80 transportation corridors or intersections of regional significance located at least the following  
81 distances from the proposed development (as measured by straight-line distance):  
82

83 a. Fifty (50) or less new peak period trips at development site: one (1) mile;  
84

85 b. Fifty-one (51) to two hundred fifty (250) new peak period trips at  
86 development site: two (2) miles;  
87

88 c. Two hundred fifty-one (251) or more new peak period trips at  
89 development site: three (3) miles.  
90

91 6. The Public Works Director reserves the right to require an applicant to provide  
92 additional data and/or analysis as part of a particular transportation impact study, where the  
93 Public Works Director determines that additional information or analysis is required to  
94 implement the standards and requirements contained in this section.  
95

96 7. No traffic impact study shall be required, pursuant to the provisions of this  
97 section, where the proposed development will generate less than ten (10) peak period vehicle  
98 trips. However, these proposed developments are still subject to concurrency reviews and require  
99 concurrency approvals.

100  
101 8. Upon the written request of an applicant, the Public Works Director may waive  
102 the requirement for a transportation impact study, or limit the scope of analysis and required  
103 elements of a traffic impact study where the Public Works Director determines that the potential  
104 transportation impacts upon the affected transportation corridor(s) and/or intersection(s) of  
105 regional significance have been adequately analyzed in prior research or reports and/or are not  
106 projected to cause a reduction in the operating level of affected transportation corridors and/or  
107 intersections.

108  
109 E. Requirements for Concurrency Approval.

110 1. Each development application subject to the provisions of this section shall  
111 require a concurrency review. No development application may be approved by the review  
112 authority until such time as a concurrency approval or conditional concurrency approval has  
113 been issued by the Public Works Director.

114  
115 2. The concurrency determination for multiple development applications impacting  
116 the same transportation corridors or intersections shall be tested chronologically in accordance  
117 with the respective applications' fully complete dates as determined under Sections  
118 40.510.010(B), 40.510.020(C), and 40.510.030(C) (but not the contingent vesting provisions of  
119 Sections 40.510.010(D), 40.510.020(G), and 40.510.030(G)). For the purpose of this subsection  
120 only, the fully complete date for an application delayed in processing for sixty (60) days or  
121 longer due to actions or inaction of the applicant (as determined by the responsible official) shall  
122 be adjusted according to the length of such delay. Preapplication concurrency reviews shall be  
123 tested in the order they are received.

124  
125 3. The Public Works Director shall issue a concurrency approval where the Public  
126 Works Director determines that the proposed development's impacts upon all affected  
127 transportation corridors and intersections of regional significance do not result in the operating  
128 levels for the transportation corridors, signalized intersections, and unsignalized intersections  
129 falling below the adopted level of service standards established in Section 40.350.020(G).

130  
131 4. A concurrency review and approval shall not be required for those affected  
132 transportation corridors and intersections of regional significance further away than the distances  
133 identified in Section 40.350.020(D)(5).

134  
135 5. The Public Works Director may approve and condition mitigation (if volunteered  
136 by the applicant) where the Public Works Director determines that the proposed development's  
137 projected impacts upon an affected transportation corridor or intersection of regional significance  
138 can be offset by the mitigation such that the operating levels will not further deteriorate because

139 of the additional traffic generated by the proposed development. The review authority may  
140 approve a development when the Public Works Director determines that achieving the level of  
141 service standards would cause significant negative environmental impacts as identified in a  
142 SEPA review.

143  
144 6. Appeals to the determination of the Public Works Director with respect to  
145 concurrency shall be made in accordance with Sections 40.510.010(E), 40.510.020(H), and  
146 40.510.030(H). Applications reviewed as Type I and Type II procedures shall be appealed as  
147 Type II procedures. For applications reviewed as Type III procedures, the Public Works  
148 Director's determination shall be treated as a recommendation to the review authority.

149  
150 F. Determination of Operating Levels.

151 The operating level for a transportation corridor, signalized intersection, and/or  
152 unsignalized intersection shall be defined as the traffic characteristics of those roadways and  
153 intersections with consideration of the following factors:

- 154
- 155 1. The existing traffic levels on the roadways and intersections;
  - 156
  - 157 2. Any mitigation measures proposed by the applicant.
    - 158 a. For site plans, mitigation measures shall be completed and/or implemented  
159 prior to occupancy or commencement of the use.
    - 160
    - 161 b. For land divisions, mitigation measures shall be completed and/or  
162 implemented prior to:
      - 163 (1) Final plat approval; or
      - 164
      - 165 (2) Issuance of the first building permit for any newly recorded lot,  
166 provided:
        - 167 (a) The improvements are secured by a performance bond or  
168 financial guarantees acceptable to the county prior to final  
169 plat.
        - 170
        - 171 (b) Construction plans shall be approved, and any needed  
172 right-of-way for the mitigation improvements have been  
173 obtained prior to final plat approval.
        - 174
        - 175 (c) "Model home" building permits issued subject to the  
176 requirements of Section 40.260.175 do not require bonding  
177 or right-of-way acquisition necessary for transportation  
178 concurrency mitigation measures.
        - 179
        - 180
        - 181

182 3. Any mitigation measures conditioned to other approved developments which will  
183 be completed and/or implemented prior to occupancy of the proposed development;

184  
185 4. The traffic impacts of the proposed development on the affected transportation  
186 corridors and intersections;

187  
188 5. The traffic impacts of other approved developments not yet fully built-out on the  
189 affected transportation corridors and intersections;

190  
191 6. Any improvements being implemented as part of the county's transportation  
192 improvement program that are reasonably funded and scheduled for completion of construction  
193 within six (6) years of the final date for a decision upon the development application;

194  
195 7. Any capacity which has been assigned or reserved to other and/or future  
196 developments pursuant to the terms of a development agreement or capacity reservation  
197 authorized and executed under the provisions of this chapter;

198  
199 8. Any background traffic growth or traffic from developments exempt from the  
200 requirements of this chapter that the Public Works Director determines could have an impact on  
201 the operating level of the transportation corridors or intersections;

202  
203 9. Any other factors that the Public Works Director has determined could have an  
204 impact on the operating level of the transportation corridors or intersections.

205  
206 G. Level of Service Standards.

207 1. Level of service or LOS standards shall be as follows:

- 208  
209 a. The maximum volume to capacity ratio for each roadway segment shall  
210 not exceed nine-tenths (0.9), when measured independently for each  
211 direction of travel. Measurements shall be made for all collector and  
212 arterial roadway segments located within the Vancouver Urban Growth  
213 Area, but outside of the City of Vancouver. Measurements shall also be  
214 made for state highways of regional significance. In calculating the  
215 volume to capacity ratio, the volume shall be determined based on the  
216 factors described in Section 40.350.020(F). In determining the capacity for  
217 roadways built-out to county standards, the capacity shall be based on the  
218 factors described in Table 40.350.020-1, Roadway Capacities. For  
219 roadways not fully built-out to county standards, the capacity shall be  
220 determined based on the current roadway condition. For roadways with  
221 lane widths twelve (12) feet and greater, and with paved shoulder widths  
222 two (2) feet and greater, the lane capacity shall be eight hundred (800)  
223 vehicles per hour. For roadways with lane widths between eleven (11) and  
224 twelve (12) feet and with paved shoulder widths two (2) feet and greater,

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the lane capacity shall be seven hundred (700) vehicles per hour. For roadways with lane widths less than eleven (11) feet, the lane capacity shall be six hundred (600) vehicles per hour.

Table 40.350.020-1 Roadway Capacities				
Roadway Type			County Designation	Single Direction Capacity/Hour
Urban	Arterials	Parkway	Pa-4b	2000
		Principal	Pr-4cb	1800
		Minor, 4-lane	M-4cb	1800
		Minor, 2-lane	M-2cb	900
	Collector	Urban	C-2cb	900
		Urban	C-2	800
		Urban	C-2b	800
Rural	Arterial		RA	800
	Collector	Major	R-2	800
		Minor	Rm-2	800

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- b. Individual movements at each signalized intersection of regional significance in the unincorporated county shall not exceed an average of two (2) cycle lengths or two hundred forty (240) seconds of delay (whichever is less).
- c. All unsignalized intersections of regional significance in the unincorporated county shall achieve LOS E standards or better (if warrants are not met). If warrants are met, unsignalized intersections of regional significance shall achieve LOS D standards or better. The signalization of unsignalized intersections shall be at the discretion of the Public Works Director and shall not obligate the county to meet this LOS standard. However, proposed developments shall not be required to mitigate their impacts in order to obtain a concurrency approval unless:
  - (1) The proposed development adds at least five (5) peak period trips to a failing intersection approach; and

- 250  
251 (2) ~~The projected volume to capacity ratio for the worst lane~~  
252 ~~movement on the approach with the highest delay exceeds nine-~~  
253 ~~tenths (0.9) during the peak traffic period; and~~  
254  
255 (3) That same movement is worsened by the proposed development.  
256  
257 d. The LOS standards identified in this subsection shall be applied during  
258 peak period traffic conditions, as defined by the responsible official and  
259 published in the administrative manual.  
260  
261 2. The LOS standards established in this subsection shall be applied and interpreted  
262 as stated in the administrative manual prepared pursuant to Section 40.350.020(N).  
263  
264 3. The LOS standards and the operating levels for each transportation corridor and  
265 intersection of regional significance shall be evaluated and reviewed on an annual basis by the  
266 board.  
267  
268 4. Notwithstanding the provisions for the annual review of LOS standards pursuant  
269 to this section, the board reserves the authority to enact and renew emergency moratoria and  
270 interim zoning or other official controls upon development approvals affecting designated  
271 transportation corridors and intersections of regional significance pursuant to RCW 36.70A.390,  
272 and may specify qualifications or conditions for the application of such moratoria and interim  
273 zoning or other official controls.  
274  
275 H. Exemptions from Concurrency Requirements.

276 The following types of development applications shall not be subject to a concurrency  
277 denial:

- 278  
279 1. K – 12 public schools incorporating commitments to commute trip reduction  
280 consistent with Chapter 5.50;  
281  
282 2. Fire/police stations;  
283  
284 3. Public transit facilities;  
285  
286 4. Neighborhood parks.  
287

288 I. Concurrency Survey.

- 289  
290 1. For purposes of monitoring the cumulative transportation-related impacts of  
291 developments which are exempt from the requirements of this section, such development

292 applications shall be required to submit a concurrency survey for review by the Public Works  
293 Director.

294  
295 2. Submittals of concurrency surveys shall be made upon written forms provided by  
296 the Director and shall be filed with the Public Works Director. The concurrency survey shall  
297 indicate, at a minimum:

- 298  
299 a. The type and location of the development;  
300  
301 b. An identification of all affected transportation corridors and intersections  
302 of regional significance;  
303  
304 c. The specific reason the development is exempt from the provisions of this  
305 section;  
306  
307 d. An estimate of the projected total peak period trips that will be generated  
308 by the development; and  
309  
310 e. An estimate of the date of occupancy of the development.

311  
312 3. The Public Works Director shall review and approve the concurrency survey, and  
313 may require the submission of additional information prior to approving the survey.

314  
315 4. No development application may be approved by the review authority until such  
316 time as the applicant has complied with the requirements of this subsection, and the Public  
317 Works Director has approved the concurrency survey.

318  
319 J. Reservation of Capacity.

320 1. Upon issuance of a concurrency approval by the Public Works Director, the  
321 transportation capacity allocated by the Public Works Director to the development application  
322 shall become encumbered capacity. This encumbered capacity shall not be considered for use by  
323 another development application until such time as the concurrency approval expires pursuant to  
324 Section 40.350.020(J)(4).

325  
326 2. Upon issuance of a development approval by the review authority, this  
327 encumbered capacity shall become reserved capacity and shall not be considered for use by  
328 another development application.

329  
330 3. Reserved capacity shall not be transferable to another development upon another  
331 site. Reserved capacity from a previous development approval shall not be transferable to a  
332 different land use development upon the same site.

333

334 4. Concurrency approvals shall be valid for the same period of time as the  
335 development approval, and shall expire upon the date the development approval expires.  
336 Notwithstanding the provisions of this subsection, a concurrency approval shall expire upon the  
337 date the development application for which the concurrency approval was required is:  
338

- 339 a. Withdrawn by the applicant;
- 340
- 341 b. Denied approval by the review authority; provided, that for purposes of  
342 this section, an application shall not be deemed to be denied by the review  
343 authority until a final decision has been issued pursuant to any  
344 administrative appeal under Sections 40.510.010(E), 40,510.020(H), and  
345 40.510.030(H); or until a final decision has been rendered by a superior  
346 court with competent jurisdiction, where such judicial appeal has been  
347 filed in a timely way; or  
348
- 349 c. Not found to be fully complete within one hundred eighty (180) days of a  
350 pre-application concurrency approval.  
351

352 K. Capacity Reservation for Development Agreements.

353 The board may reserve capacity, prior to approval of a development application by the  
354 review authority, through the approval of a development agreement authorized and executed  
355 under the provisions of RCW 36.70B.170. This reserved capacity shall be accounted for in  
356 establishing and reviewing LOS standards and in the determination of operating levels for  
357 transportation corridors and intersections.  
358

359 L. Capacity Reservation for a Preferred Land Use.

360 1. Where the board finds that there is a significant public interest or need to provide  
361 for the approval of a preferred land use that would affect the transportation corridors and/or  
362 intersections of regional significance, the board following a public hearing may provide for the  
363 reservation of capacity for such land use. The board may direct, by ordinance, that the  
364 transportation capacity necessary to accommodate such land use be reserved for the future  
365 approval of such land uses.  
366

367 2. Such reservation shall be for an identified period of time and shall be subject to  
368 annual review by the board. This reserved capacity shall be accounted for in establishing and  
369 reviewing LOS standards and in the determination of operating levels for the transportation  
370 corridors and intersections.  
371

372 M. Deferral of Reserved Capacity.

373 If reserved trips from a development agreement (Section 40.350.020(K)) are not  
374 scheduled to be utilized for at least five (5) years, the board by administrative resolution may

375 direct that all or a portion of such out-year trips be excluded in concurrency testing of other  
376 project applications where anticipated transportation improvement projects, whether or not  
377 deemed reasonably funded, are expected to increase capacity on the impacted  
378 corridor(s)/intersection(s) by at least the volume of the out-year trips so deferred. When deferring  
379 use of reserved trips, the reserved trips will remain vested with the original party to the developer  
380 agreement and will be available for use by that party consistent with any conditions in the  
381 development agreement.

382  
383 N. Establishment of Administrative Manual.

384 1. The Public Works Director shall establish and adopt the methodology and criteria  
385 to be used to identify transportation corridors and evaluate the operating level for each  
386 transportation corridor and intersection of regional significance.

387  
388 2. The Public Works Director shall establish and adopt the methodology and criteria  
389 to be used to identify and evaluate the transportation impacts of developments which are required  
390 to be addressed in the transportation impact studies required by Section 40.350.020(D).

391  
392 3. The Public Works Director shall publish and regularly update an administrative  
393 manual setting forth the methodology and criteria adopted for the purposes described in Sections  
394 40.350.020(N)(1) and (N)(2).

395  
396 4. A copy of the most recent version of the administrative manual shall be made  
397 available for public inspection and review.

398  
399 5. The provisions of the administrative manual shall be consistent with and  
400 implement the provisions of this section. To the extent the provisions of the manual are  
401 inconsistent with the provisions of this section, the provisions of this section shall control.

402  
403 O. Mitigated Level of Service for Master Planned Developments.

404 Mitigated level of service standards may be established, for master planned industrial,  
405 university or office uses, which the review authority finds:

406  
407 1. Are approved for master plan development under Section 40.520.070 for  
408 properties zoned light industrial (IL) or are approved as a master development plan under Section  
409 40.230.050 for properties zoned university (U), or if previously approved, are found to  
410 substantially comply with Section 40.230.050 or 40.520.070;

411  
412 2. Are served by a transportation corridor which incorporates measures to mitigate  
413 traffic congestion, such as high occupancy vehicle lanes, fifteen (15) minute or better peak hour  
414 transit service, freeway ramp metering, or traffic signal coordination; and  
415

416 3. Incorporates a commitment to commute trip reduction for all industrial, university  
417 and office on-site employers, consistent with Chapter 5.50.

418  
419 P. Application of SEPA to the Director's Determinations.

420 Any determination made by the Public Works Director pursuant to this section shall be an  
421 administrative action that is categorically exempt from the State Environmental Policy Act.

422  
423 **Section 3. Work plan Development.** Staff for the Departments of Community  
424 Development and Public Works are directed to proceed with the evaluation, receipt of public  
425 comment, and scheduling of proceedings with the Development and Engineering Advisory  
426 Board and Planning Commission. Thereafter a public hearing will be scheduled.

427  
428 **Section 3. Effective Date.** This ordinance shall be effective upon adoption and shall  
429 expire upon adoption of a new ordinance following consideration of this matter by the Clark  
430 County Council or 6 months from its adoption whichever is earlier.

431 **Section 4. Instructions to Clerk.** The Clerk to the Board shall:

432 1. Record a copy of this ordinance with the Clark County Auditor.

433 2. Transmit a copy of this ordinance to the state within ten days of its adoption,  
434 pursuant to RCW 36.70A.106.

435 3. Cause notice of adoption of this ordinance to be published forthwith pursuant to  
436 RCW 36.70A.290.

437 ADOPTED BY ROLL CALL this \_\_\_\_\_ day of August, 2016.

438 For: \_\_\_\_\_

439 \_\_\_\_\_

440 Against:

441 \_\_\_\_\_

442 \_\_\_\_\_

443 (Remainder or page intentionally left blank.)

Attest

Rebecca J. Itte  
Clerk to the Board

CLARK COUNTY COUNCIL

By: Marc Boldt  
Marc Boldt, Chair

By: \_\_\_\_\_  
Jeanne E. Stewart, Councilor

By: \_\_\_\_\_  
Julie Olson, Councilor

Approved as to form only:

Christopher Horne  
Christopher Horne  
Deputy Prosecuting Attorney

By: \_\_\_\_\_  
David Madore, Councilor

By: \_\_\_\_\_  
Tom Mielke, Councilor



ORDINANCE NO. 2016-08-12

An emergency interim zoning ordinance relating to land use, suspending exemptions to the Concurrency Standards under CCC 40.350.020.

1 WHEREAS, the Council finds that Clark County code attempts to delay development in  
2 areas served by roads failing concurrency; and

3 WHEREAS, recent amendments applied to intersections may not achieve that goal; and,

4 WHEREAS, developments may be approved even though served by roads that have  
5 failed to achieve safe levels of service; and

6 WHEREAS, immediate suspension of these exemptions is necessary, due to  
7 Washington's vesting laws, to provide time to reevaluate the road standards and protect the  
8 public health and safety; and

9 WHEREAS, RCW 36.70A.390 and RCW 35.63.200 authorize the Board to adopt an  
10 interim zoning ordinance without holding a public hearing, provided, a duly-noticed public  
11 hearing is held within 60 days of adoption; and

12 Whereas, the Board is considering this interim ordinance to further the public health,  
13 safety, and welfare; it is now, therefore,

14 ORDERED, RESOLVED AND DECREED BY THE BOARD OF COUNTY  
15 COUNCILORS OF CLARK COUNTY, STATE OF WASHINGTON, AS FOLLOWS:

16 **Section 1. Findings.** RCW 35.63.200 authorizes adoption of interim zoning  
17 measures with certain limitations. In compliance with the requirements of this statute, the Board  
18 of County Commissioners adopts as findings the pronouncements contained in the above recital  
19 provisions.

20           **Section 2.     Amendatory.** Sec. 1 (Ex. A) of Ord. 2000-10-03, as most recently  
21 amended by Ordinance 2010-08-06 and codified as 40.350.020, are each amended to read:

22 **40.350.020     Transportation Concurrency Management System**

23 A.     Purpose.

24           This section implements the requirements in RCW 36.70A.070 that counties:

- 25  
26           1.     Establish level of service standards for arterial and transit routes; and  
27  
28           2.     Ensure that such standards are met or reasonably funded before new development  
29 is approved.

30  
31 B.     Applicability.

32           This section applies to applications for subdivision, short subdivision, conditional use  
33 permit approvals, and site plan review, except for those site plan reviews for unoccupied utility  
34 and wireless communication facilities which have a potential vehicular impact on the level of  
35 service of a segment or intersection of either:

- 36  
37           1.     Any county roadway with a comprehensive plan functional classification of  
38 arterial or collector; or  
39  
40           2.     Any state highway of regional significance.

41  
42 C.     Review Authority.

43           The review authority shall approve, approve with conditions, or deny proposed  
44 developments in accordance with the provisions of this section.

45  
46 D.     Transportation Impact Study.

47           1.     A transportation impact study shall be required for all development applications  
48 in which the proposed development is projected to have an impact upon any affected  
49 transportation corridor or intersection of regional significance, unless the development  
50 application is exempt from the provisions of this section as provided for in Section  
51 40.350.020(D)(7), or the requirement for a study has been waived by the Public Works Director.

52  
53           2.     A transportation impact study shall include, at a minimum, an analysis of the  
54 following elements:  
55

- 56 a. Trip generation, modal split, distribution, and assignment for the proposed  
57 development; and  
58
- 59 b. An analysis of the projected impact of the proposed development upon the  
60 current operating level and safety of affected transportation corridors and  
61 intersections of regional significance. The analysis shall also include an  
62 accounting of trips assigned to all collector and arterial roadways.  
63
- 64 3. A transportation impact study shall be prepared by and/or under the supervision of  
65 a registered professional engineer in the state of Washington.  
66
- 67 4. A transportation impact study shall be based on traffic counts obtained within  
68 twelve (12) months of the fully complete date of the development application as determined  
69 under Sections 40.510.010(B), 40.510.020(C), and 40.51.030(C). The traffic counts shall reflect  
70 representative traffic conditions on collector and arterial roadways, and at intersections of  
71 regional significance. Intersections of regional significance are those intersections where at least  
72 three (3) legs are collector or arterial classification roadways.  
73
- 74 5. A transportation impact study shall not be required to analyze impacts on affected  
75 transportation corridors or intersections of regional significance located at least the following  
76 distances from the proposed development (as measured by straight-line distance):  
77
- 78 a. Fifty (50) or less new peak period trips at development site: one (1) mile;  
79
- 80 b. Fifty-one (51) to two hundred fifty (250) new peak period trips at  
81 development site: two (2) miles;  
82
- 83 c. Two hundred fifty-one (251) or more new peak period trips at  
84 development site: three (3) miles.  
85
- 86 6. The Public Works Director reserves the right to require an applicant to provide  
87 additional data and/or analysis as part of a particular transportation impact study, where the  
88 Public Works Director determines that additional information or analysis is required to  
89 implement the standards and requirements contained in this section.  
90
- 91 7. No traffic impact study shall be required, pursuant to the provisions of this  
92 section, where the proposed development will generate less than ten (10) peak period vehicle  
93 trips. However, these proposed developments are still subject to concurrency reviews and require  
94 concurrency approvals.  
95
- 96 8. Upon the written request of an applicant, the Public Works Director may waive  
97 the requirement for a transportation impact study, or limit the scope of analysis and required  
98 elements of a traffic impact study where the Public Works Director determines that the potential  
99 transportation impacts upon the affected transportation corridor(s) and/or intersection(s) of

100 regional significance have been adequately analyzed in prior research or reports and/or are not  
101 projected to cause a reduction in the operating level of affected transportation corridors and/or  
102 intersections.

103  
104 E. Requirements for Concurrency Approval.

105 1. Each development application subject to the provisions of this section shall  
106 require a concurrency review. No development application may be approved by the review  
107 authority until such time as a concurrency approval or conditional concurrency approval has  
108 been issued by the Public Works Director.

109  
110 2. The concurrency determination for multiple development applications impacting  
111 the same transportation corridors or intersections shall be tested chronologically in accordance  
112 with the respective applications' fully complete dates as determined under Sections  
113 40.510.010(B), 40.510.020(C), and 40.510.030(C) (but not the contingent vesting provisions of  
114 Sections 40.510.010(D), 40.510.020(G), and 40.510.030(G)). For the purpose of this subsection  
115 only, the fully complete date for an application delayed in processing for sixty (60) days or  
116 longer due to actions or inaction of the applicant (as determined by the responsible official) shall  
117 be adjusted according to the length of such delay. Preapplication concurrency reviews shall be  
118 tested in the order they are received.

119  
120 3. The Public Works Director shall issue a concurrency approval where the Public  
121 Works Director determines that the proposed development's impacts upon all affected  
122 transportation corridors and intersections of regional significance do not result in the operating  
123 levels for the transportation corridors, signalized intersections, and unsignalized intersections  
124 falling below the adopted level of service standards established in Section 40.350.020(G).

125  
126 4. A concurrency review and approval shall not be required for those affected  
127 transportation corridors and intersections of regional significance further away than the distances  
128 identified in Section 40.350.020(D)(5).

129  
130 5. The Public Works Director may approve and condition mitigation (if volunteered  
131 by the applicant) where the Public Works Director determines that the proposed development's  
132 projected impacts upon an affected transportation corridor or intersection of regional significance  
133 can be offset by the mitigation such that the operating levels will not further deteriorate because  
134 of the additional traffic generated by the proposed development. The review authority may  
135 approve a development when the Public Works Director determines that achieving the level of  
136 service standards would cause significant negative environmental impacts as identified in a  
137 SEPA review.

138  
139 6. Appeals to the determination of the Public Works Director with respect to  
140 concurrency shall be made in accordance with Sections 40.510.010(E), 40.510.020(H), and  
141 40.510.030(H). Applications reviewed as Type I and Type II procedures shall be appealed as

142 Type II procedures. For applications reviewed as Type III procedures, the Public Works  
143 Director's determination shall be treated as a recommendation to the review authority.

144

145 F. Determination of Operating Levels.

146 The operating level for a transportation corridor, signalized intersection, and/or  
147 unsignalized intersection shall be defined as the traffic characteristics of those roadways and  
148 intersections with consideration of the following factors:

149

150 1. The existing traffic levels on the roadways and intersections;

151

152 2. Any mitigation measures proposed by the applicant.

153

154 a. For site plans, mitigation measures shall be completed and/or implemented  
155 prior to occupancy or commencement of the use.

156

157 b. For land divisions, mitigation measures shall be completed and/or  
158 implemented prior to:

159

160 (1) Final plat approval; or

161

162 (2) Issuance of the first building permit for any newly recorded lot,  
163 provided:

164

165 (a) The improvements are secured by a performance bond or  
166 financial guarantees acceptable to the county prior to final  
167 plat.

168

169 (b) Construction plans shall be approved, and any needed  
170 right-of-way for the mitigation improvements have been  
171 obtained prior to final plat approval.

172

173 (c) "Model home" building permits issued subject to the  
174 requirements of Section 40.260.175 do not require bonding  
175 or right-of-way acquisition necessary for transportation  
176 concurrency mitigation measures.

177

178 3. Any mitigation measures conditioned to other approved developments which will  
179 be completed and/or implemented prior to occupancy of the proposed development;

180

181 4. The traffic impacts of the proposed development on the affected transportation  
182 corridors and intersections;

183

184 5. The traffic impacts of other approved developments not yet fully built-out on the  
affected transportation corridors and intersections;

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6. Any improvements being implemented as part of the county's transportation improvement program that are reasonably funded and scheduled for completion of construction within six (6) years of the final date for a decision upon the development application;

7. Any capacity which has been assigned or reserved to other and/or future developments pursuant to the terms of a development agreement or capacity reservation authorized and executed under the provisions of this chapter;

8. Any background traffic growth or traffic from developments exempt from the requirements of this chapter that the Public Works Director determines could have an impact on the operating level of the transportation corridors or intersections;

9. Any other factors that the Public Works Director has determined could have an impact on the operating level of the transportation corridors or intersections.

G. Level of Service Standards.

1. Level of service or LOS standards shall be as follows:

- a. The maximum volume to capacity ratio for each roadway segment shall not exceed nine-tenths (0.9), when measured independently for each direction of travel. Measurements shall be made for all collector and arterial roadway segments located within the Vancouver Urban Growth Area, but outside of the City of Vancouver. Measurements shall also be made for state highways of regional significance. In calculating the volume to capacity ratio, the volume shall be determined based on the factors described in Section 40.350.020(F). In determining the capacity for roadways built-out to county standards, the capacity shall be based on the factors described in Table 40.350.020-1, Roadway Capacities. For roadways not fully built-out to county standards, the capacity shall be determined based on the current roadway condition. For roadways with lane widths twelve (12) feet and greater, and with paved shoulder widths two (2) feet and greater, the lane capacity shall be eight hundred (800) vehicles per hour. For roadways with lane widths between eleven (11) and twelve (12) feet and with paved shoulder widths two (2) feet and greater, the lane capacity shall be seven hundred (700) vehicles per hour. For roadways with lane widths less than eleven (11) feet, the lane capacity shall be six hundred (600) vehicles per hour.

/////

Table 40.350.020-1 Roadway Capacities				
Roadway Type			County Designation	Single Direction Capacity/Hour
Urban	Arterials	Parkway	Pa-4b	2000
		Principal	Pr-4cb	1800
		Minor, 4-lane	M-4cb	1800
		Minor, 2-lane	M-2cb	900
	Collector	Urban	C-2cb	900
		Urban	C-2	800
		Urban	C-2b	800
Rural	Arterial		RA	800
	Collector	Major	R-2	800
		Minor	Rm-2	800

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- b. Individual movements at each signalized intersection of regional significance in the unincorporated county shall not exceed an average of two (2) cycle lengths or two hundred forty (240) seconds of delay (whichever is less).
  
- c. All unsignalized intersections of regional significance in the unincorporated county shall achieve LOS E standards or better (if warrants are not met). If warrants are met, unsignalized intersections of regional significance shall achieve LOS D standards or better. The signalization of unsignalized intersections shall be at the discretion of the Public Works Director and shall not obligate the county to meet this LOS standard. However, proposed developments shall not be required to mitigate their impacts in order to obtain a concurrency approval unless:
  - (1) The proposed development adds at least five (5) peak period trips to a failing intersection approach; and
  - (2) ~~The projected volume to capacity ratio for the worst lane movement on the approach with the highest delay exceeds nine-tenths (0.9) during the peak traffic period; and~~
  - (3) That same movement is worsened by the proposed development.

252 d. The LOS standards identified in this subsection shall be applied during  
253 peak period traffic conditions, as defined by the responsible official and  
254 published in the administrative manual.  
255

256 2. The LOS standards established in this subsection shall be applied and interpreted  
257 as stated in the administrative manual prepared pursuant to Section 40.350.020(N).  
258

259 3. The LOS standards and the operating levels for each transportation corridor and  
260 intersection of regional significance shall be evaluated and reviewed on an annual basis by the  
261 board.  
262

263 4. Notwithstanding the provisions for the annual review of LOS standards pursuant  
264 to this section, the board reserves the authority to enact and renew emergency moratoria and  
265 interim zoning or other official controls upon development approvals affecting designated  
266 transportation corridors and intersections of regional significance pursuant to RCW 36.70A.390,  
267 and may specify qualifications or conditions for the application of such moratoria and interim  
268 zoning or other official controls.  
269

270 H. Exemptions from Concurrency Requirements.

271 The following types of development applications shall not be subject to a concurrency  
272 denial:  
273

274 1. K – 12 public schools incorporating commitments to commute trip reduction  
275 consistent with Chapter 5.50;  
276

277 2. Fire/police stations;  
278

279 3. Public transit facilities;  
280

281 4. Neighborhood parks.  
282

283 I. Concurrency Survey.  
284

285 1. For purposes of monitoring the cumulative transportation-related impacts of  
286 developments which are exempt from the requirements of this section, such development  
287 applications shall be required to submit a concurrency survey for review by the Public Works  
288 Director.  
289

290 2. Submittals of concurrency surveys shall be made upon written forms provided by  
291 the Director and shall be filed with the Public Works Director. The concurrency survey shall  
292 indicate, at a minimum:  
293

294 a. The type and location of the development;

- 295  
296           b.     An identification of all affected transportation corridors and intersections  
297                   of regional significance;  
298  
299           c.     The specific reason the development is exempt from the provisions of this  
300                   section;  
301  
302           d.     An estimate of the projected total peak period trips that will be generated  
303                   by the development; and  
304  
305           e.     An estimate of the date of occupancy of the development.  
306

307           3.     The Public Works Director shall review and approve the concurrency survey, and  
308                   may require the submission of additional information prior to approving the survey.  
309

310           4.     No development application may be approved by the review authority until such  
311                   time as the applicant has complied with the requirements of this subsection, and the Public  
312                   Works Director has approved the concurrency survey.  
313

314    J.     Reservation of Capacity.

315           1.     Upon issuance of a concurrency approval by the Public Works Director, the  
316                   transportation capacity allocated by the Public Works Director to the development application  
317                   shall become encumbered capacity. This encumbered capacity shall not be considered for use by  
318                   another development application until such time as the concurrency approval expires pursuant to  
319                   Section 40.350.020(J)(4).  
320

321           2.     Upon issuance of a development approval by the review authority, this  
322                   encumbered capacity shall become reserved capacity and shall not be considered for use by  
323                   another development application.  
324

325           3.     Reserved capacity shall not be transferable to another development upon another  
326                   site. Reserved capacity from a previous development approval shall not be transferable to a  
327                   different land use development upon the same site.  
328

329           4.     Concurrency approvals shall be valid for the same period of time as the  
330                   development approval, and shall expire upon the date the development approval expires.  
331                   Notwithstanding the provisions of this subsection, a concurrency approval shall expire upon the  
332                   date the development application for which the concurrency approval was required is:  
333

- 334                   a.     Withdrawn by the applicant;  
335  
336                   b.     Denied approval by the review authority; provided, that for purposes of  
337                   this section, an application shall not be deemed to be denied by the review

338 authority until a final decision has been issued pursuant to any  
339 administrative appeal under Sections 40.510.010(E), 40,510.020(H), and  
340 40.510.030(H); or until a final decision has been rendered by a superior  
341 court with competent jurisdiction, where such judicial appeal has been  
342 filed in a timely way; or  
343

344 c. Not found to be fully complete within one hundred eighty (180) days of a  
345 pre-application concurrency approval.  
346

347 K. Capacity Reservation for Development Agreements.

348 The board may reserve capacity, prior to approval of a development application by the  
349 review authority, through the approval of a development agreement authorized and executed  
350 under the provisions of RCW 36.70B.170. This reserved capacity shall be accounted for in  
351 establishing and reviewing LOS standards and in the determination of operating levels for  
352 transportation corridors and intersections.  
353

354 L. Capacity Reservation for a Preferred Land Use.

355 1. Where the board finds that there is a significant public interest or need to provide  
356 for the approval of a preferred land use that would affect the transportation corridors and/or  
357 intersections of regional significance, the board following a public hearing may provide for the  
358 reservation of capacity for such land use. The board may direct, by ordinance, that the  
359 transportation capacity necessary to accommodate such land use be reserved for the future  
360 approval of such land uses.  
361

362 2. Such reservation shall be for an identified period of time and shall be subject to  
363 annual review by the board. This reserved capacity shall be accounted for in establishing and  
364 reviewing LOS standards and in the determination of operating levels for the transportation  
365 corridors and intersections.  
366

367 M. Deferral of Reserved Capacity.

368 If reserved trips from a development agreement (Section 40.350.020(K)) are not  
369 scheduled to be utilized for at least five (5) years, the board by administrative resolution may  
370 direct that all or a portion of such out-year trips be excluded in concurrency testing of other  
371 project applications where anticipated transportation improvement projects, whether or not  
372 deemed reasonably funded, are expected to increase capacity on the impacted  
373 corridor(s)/intersection(s) by at least the volume of the out-year trips so deferred. When deferring  
374 use of reserved trips, the reserved trips will remain vested with the original party to the developer  
375 agreement and will be available for use by that party consistent with any conditions in the  
376 development agreement.  
377

378 N. Establishment of Administrative Manual.

379 1. The Public Works Director shall establish and adopt the methodology and criteria  
380 to be used to identify transportation corridors and evaluate the operating level for each  
381 transportation corridor and intersection of regional significance.  
382

383 2. The Public Works Director shall establish and adopt the methodology and criteria  
384 to be used to identify and evaluate the transportation impacts of developments which are required  
385 to be addressed in the transportation impact studies required by Section 40.350.020(D).  
386

387 3. The Public Works Director shall publish and regularly update an administrative  
388 manual setting forth the methodology and criteria adopted for the purposes described in Sections  
389 40.350.020(N)(1) and (N)(2).  
390

391 4. A copy of the most recent version of the administrative manual shall be made  
392 available for public inspection and review.  
393

394 5. The provisions of the administrative manual shall be consistent with and  
395 implement the provisions of this section. To the extent the provisions of the manual are  
396 inconsistent with the provisions of this section, the provisions of this section shall control.  
397

398 O. Mitigated Level of Service for Master Planned Developments.

399 Mitigated level of service standards may be established, for master planned industrial,  
400 university or office uses, which the review authority finds:  
401

402 1. Are approved for master plan development under Section 40.520.070 for  
403 properties zoned light industrial (IL) or are approved as a master development plan under Section  
404 40.230.050 for properties zoned university (U), or if previously approved, are found to  
405 substantially comply with Section 40.230.050 or 40.520.070;  
406

407 2. Are served by a transportation corridor which incorporates measures to mitigate  
408 traffic congestion, such as high occupancy vehicle lanes, fifteen (15) minute or better peak hour  
409 transit service, freeway ramp metering, or traffic signal coordination; and  
410

411 3. Incorporates a commitment to commute trip reduction for all industrial, university  
412 and office on-site employers, consistent with Chapter 5.50.  
413

414 P. Application of SEPA to the Director's Determinations.

415 Any determination made by the Public Works Director pursuant to this section shall be an  
416 administrative action that is categorically exempt from the State Environmental Policy Act.  
417

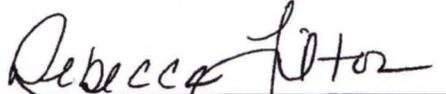
418           **Section 3. Effective Date.** This ordinance shall be effective upon adoption and shall  
419 expire upon adoption of a new ordinance following consideration of this matter by the Clark  
420 County Council or 60 days of adoption whichever is earlier.

421           **Section 4. Instructions to Clerk.** The Clerk to the Board shall:

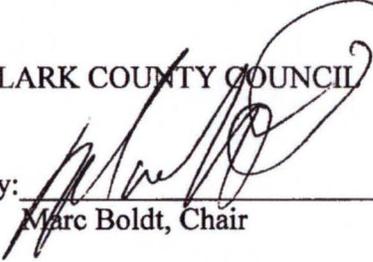
- 422           1. Record a copy of this ordinance with the Clark County Auditor.
- 423           2. Transmit a copy of this ordinance to the state within ten days of its adoption,  
424 pursuant to RCW 36.70A.106.
- 425           3. Cause notice of adoption of this ordinance to be published forthwith pursuant to  
426 RCW 36.70A.290.
- 427           4. This ordinance is temporary in nature and is not to be codified.

428           ADOPTED BY ROLL CALL this 30<sup>th</sup> day of August, 2016.

Attest

  
Clerk to the Board

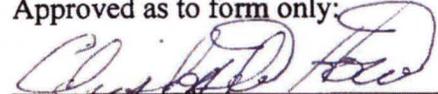
CLARK COUNTY COUNCIL

By:   
Marc Boldt, Chair

By: \_\_\_\_\_  
Jeanne E. Stewart, Councilor

By: \_\_\_\_\_  
Julie Olson, Councilor

Approved as to form only:

  
Christopher Horne  
Deputy Prosecuting Attorney

By: \_\_\_\_\_  
David Madore, Councilor

By: \_\_\_\_\_  
Tome Mielke, Councilor



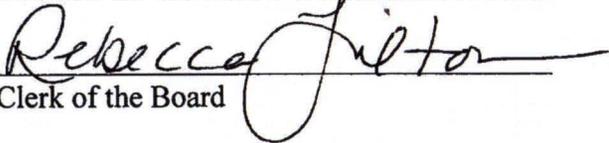
## NOTICE OF PUBLIC HEARING

The Clark County Council will hold a public hearing on Tuesday, the 25th day of October 2016 at 10:00 a.m. in the Commissioners' Hearing Room, 6th Floor, Public Service Center, 1300 Franklin Street, Vancouver, Washington to consider adoption of an ordinance extending the suspension of certain Road Standard Concurrency exemptions, adopting a work plan and providing an opportunity for the public to testify on the interim Ordinance adopted pursuant to RCW 35.63.200 and RCW 36.70A.390..

More information concerning this matter may be obtained by contacting David Jardin at the Clark County Community Development, 1300 Franklin Street, Vancouver, Washington, telephone (360) 397-6118.

Any person wishing to give testimony in this matter should appear at the time, date, and place above stated.

BOARD OF COUNTY COMMISSIONERS

  
Clerk of the Board

Approved as to Form Only  
ANTHONY F. GOLIK  
Prosecuting Attorney

By   
Deputy Prosecuting Attorney

PUBLISH: October 11, 2016



For other formats contact the Clark County ADA Program:  
**Voice** (360) 397-2322; **Relay** 711 or (800) 833-6388  
**Fax** (360) 397-6165; **Email** ADA@clark.wa.gov