



**PLANNING BOARD
DEPARTMENT OF COMMUNITY DEVELOPMENT**
319 Main Street, Sultan, WA 98294

MEETING AGENDA

May 5, 2016

7:00 PM

**City of Sultan Council Chambers
319 Main Street, Sultan WA 98294**

Call to Order, Pledge of Allegiance, Roll Call

Changes to the Agenda

Public Comments

Citizens are requested to keep Public Comments to a 3-minute maximum (3 minutes or less per person) to allow time for everyone to speak.

Planning Board Member Comments

Approval of Minutes

- April 21, 2016 Meeting

**Open Public Hearing if Applicable
Hearing and Action Items**

Discussion Items:

D-1: SMC Sections 2.25; 2.26; 16.01; 16.08; 16.17; 16.18; 16.19; 16.20; 16.48; 16.52;
16.56; 16.58; 16.60; 16.72; 16.104; 16.108; 16.120; 16.128; 17.16 and 17.18

D-2 PROS Plan - Discuss Updating Schedule

Summary of Meeting Results and Actions for Next Meeting

Public Comments on Agenda Items Only

Planning Board Member Comments

Adjournment

PLANNING BOARD MISSION STATEMENT

The City of Sultan Planning Board's mission is to translate its knowledge of the community into recommendations on land use plans and codes that help the community to achieve its goals and desires for health, prosperity and quality of life for present and future generations.

Planning Board Members

Lucy Hitchcock, Chair
Sean Gossett, Chair Pro-Tem
Tom Green
Gloria Reedy
Janet Peterson

Community Development Staff

Brad Collins, FAICP
Cyd Sparks, Secretary of the Board

ADA NOTICE: City of Sultan Community Center is ADA accessible. Accommodations for person with disabilities will be provided upon request. Please make arrangements prior to the meeting by calling City Hall at 360.793.2231. For additional information please contact the City at cityhall@ci.sultan.wa.us or visit our website at www.ci.sultan.wa.us

(360) 793-1311, FAX (360) 793-3344
Staff Email: planning.department@ci.sultan.wa.us

SULTAN PLANNING BOARD MINUTES
April 21, 2016

PLANNING BOARD MEMBERS PRESENT:

Lucy Hitchcock
Sean Gossett
Tom Green (arrived late)
Janet Peterson
Gloria Reedy, Excused Absence

STAFF PRESENT:

Brad Collins FAICP,
Interim Planning Director
Cyd Sparks, Secretary of the Board

Gossett moves to excuse Reedy's absence for health reasons, Peterson seconds. All Ayes.

CALL TO ORDER:

Call to Order at 7:00 p.m.

CHANGES TO THE AGENDA:

Add: D-1 PRO's Plan Survey Discussion – what to do with the surveys?

PUBLIC COMMENTS:

Kathleen Morrison - 34805 Mann Road, Sultan. Suggests the Sultan Boys & Girls Club to tally Park forms

PLANNING BOARD MEMBER COMMENTS:

Gossett – Would like an updates on the Sign Code and mini storage shed business. Comment on bicycles in Monroe there is a Banner that says “welcome cyclists” and Sultan says no bikes on road.

Hitchcock: Apartment property for sale, why? We need apartments. Staff gave update.

APPROVAL OF MINUTES:

March 17, 2016 Minutes – Gossett moved to approve the Minutes as written. Seconded by Peterson. All Ayes.

DISCUSSION AND STUDY ITEMS

D-1: PRO's Plan Survey Discussion: They showed Board finished surveys. Board discusses how to tally surveys. He suggests Donna Murphy and her volunteers may be able to help. Board discusses and Hitchcock and Peterson volunteer to get together and tally surveys.

D-2: SMC 16.12 Zoning Districts

Uses Matrix Discussion:

He discusses the matrix with the Board. Hitchcock would like the matrix alphabetized and be table driven. Peterson asks what the stars are for. He states CUP's and the instructions for the Matrix is not completed yet. The instructions will explain more. Hitchcock wants to eliminate “Tot-Lot” and changed to “playground”. He doesn't have a problem with that. Hitchcock asks if the zoning map is going to stay the same. He says they are working on the map and it will stay the way it is now, because it shows the current land uses as existing zoning. More than likely the Comp Plan Map will be updated. We will be separating the Zoning Map and the Comp Plan Map in the future. Right now they are the same so we don't have a long range map. Board and

He discuss how changes can be made and the process. Board and Staff discuss parking garages as accessory uses to other permitted uses and stand alone parking garages as permitted uses by themselves. Gossett suggests putting Conditional Use on Carwash and private schools. He states that the Board needs to decide what use goes in what zone. Gossett suggests some changes to the Neighborhood Commercial Zone by limiting all stores to under 5,000 sq ft. He think that is a great idea. Discussion over uses and zoning continues.

Chapter 16.12.050 Low Density Residential (LDR) Zone

Hitchcock why can't you have a duplex in this zone? He states because that is what the Board asked for 4-units per acre, duplex would be 6-units per acre. Discussion continues regarding single-family use and size. Hitchcock wants duplexes allowed in the LDR and He explains the formula for figuring out how density is reached. Moderate Density Residential Zone is specifically for duplex densities from 5 - 8 units per acre. High Density Residential Zone is for 9+ units per acre.

Chapter 16.12.060 Moderate Density Residential (MDR) Zone - skip

Chapter 16.12.070 High Density Residential (HDR) Zone – skip

Chapter 16.12.080 Neighborhood Commercial (NC) Zone - above

Chapter 16.12.090 Urban Center (UC) Zone

Board and Staff discuss the uses in the UC Zone. He states you want the UC to be a 24/7 people place. This becomes the preeminent mixed use area. Hitchcock asks if sizes should be listed here. He says no, all these items would be permitted. Hitchcock is height restricted, Staff, yes to some extent. Discussion continues on uses and sizes. He says you shouldn't worry about what is put in the UC Zone because development will usually improve the zone. Hitchcock wants tot-lots changed to playgrounds. Board and Staff are okay with the change. Gossett asks if Liquor Stores and Vape Shops are listed. He doesn't think it was. This would be a good place for it.

Chapter 16.12.100 Highway-Oriented Commercial (HOC) Zone

Farmer's markets and fruit stands are discussed and are allowed as a Conditional Uses and allowed in the Urban Center as a Conditional Use as well. Gossett asked if Travelers Park could be used for a Farmers Market. The Conditional Use is to allow the Farmers Market to be at the Park on certain days for a certain amount of time. If it is a one-time deal, it would be considered an event. There is a discussion over temporary uses and the pros and cons. He explains how a Conditional Use Permit works and the costs that can come with it. Board asks could Farmers Markets be a permitted use? He says then there would not be any rules to regulate the agricultural stands because it falls under a permitted use.

Chapter 16.12.110 Manufacturing (M) Zone

Gossett asks about Adult-themed businesses. He says they are allowed in the M Zone, they have to be allowed to do business somewhere. There is a discussion over adult-themed businesses.

| Chapter 16.12.070120 Public Building-Park-Open Space (PB-P-OS) Overlay Zone skip

D-3 SMC 16.150 Definitions - skip

HE asks the Board to go over the material and get any changes to him. He shows the Board what they will be working on in the Zoning Code and explains that he took out the items that are not related to the Zoning Code.

D-4 Adding a Planning Board Meeting in May 2016. Add a Meeting to the 1st as well as the 3rd Thursday in May. Staff to notify newspaper and post downstairs.

ACTIONS FOR NEXT MEETING:

- PB Minutes for April 21, 2016
- New sections of the Zoning Code to review.
- Schedule rewrite of the PROS Plan

PUBLIC COMMENTS:

PLANNING BOARD COMMENTS:

ADJOURNMENT:

Peterson moves to adjourn the meeting and seconded by Green. All Ayes.

Adjourned at 9:04 p.m.

Chapter 2.25

BOARD OF ADJUSTMENT

Sections:

[2.25.010 Purpose.](#)

[2.25.020 Establishment – Membership.](#)

[2.25.030 Organization.](#)

[2.25.040 Terms of office.](#)

[2.25.050 Removal.](#)

[2.25.060 Vacancy filling.](#)

[2.25.070 Meetings.](#)

[2.25.080 Rules and records.](#)

[2.25.090 Powers and duties.](#)

[2.25.100 Appeals from board of adjustment.](#)

2.25.010 Purpose.

The purpose of this chapter is to establish a board of adjustment for the city, to provide for their powers and duties, and to set forth their procedures.

2.25.020 Establishment – Membership.

Pursuant to RCW [35.63.080](#), a board of adjustment is established, which shall consist of three members who are residents of the city or its urban growth area, to be appointed by the mayor and approved by the city council. A quorum of this committee shall be two members. The board of adjustment shall also act as the board of appeals of the city building codes as adopted in SMC 15.01.030.

2.25.030 Organization.

The board of adjustment shall elect a chairman and vice chairman from among its members and shall provide a secretary who need not be a member of the board. The planning staff shall provide assistance necessary to carry out the functions of the board of adjustment.

2.25.040 Terms of office.

The initial appointments to the board of adjustment shall be staggered. One member shall be appointed for one year, one member shall be appointed for two years, and one member shall be appointed for three-year terms. Thereafter, the terms shall be for three years.

2.25.050 Removal.

Any member of the board of adjustment may be removed by the mayor for neglect of duty or malfeasance in office. Neglect of duty shall include, but not be limited to, three consecutive unexcused absences for regular meetings, or a recurring pattern of unexcused absences, not necessarily consecutive.

2.25.060 Vacancy filling.

Vacancies on the board of adjustment shall be filled by appointment of the mayor and approved by the city council. Appointment shall be for the unexpired portion of the term.

2.25.070 Meetings.

The board of adjustment shall meet on the first Thursday of any month as may be needed for conducting their business at 7:00 p.m., at City Hall, 319 Main Street, Sultan, WA, and all such meetings shall be open to the public in accordance with the provisions of the Open Public Meetings Act.

2.25.080 Rules and records.

The board of adjustment shall adopt rules for the transaction of its business and shall keep official minutes of its proceedings and shall keep a public record of its transactions, findings and determinations.

2.25.090 Powers and duties.

The board of adjustment shall hear and decide the following:

A. Zoning Ordinance. To hear and decide appeals of orders, decisions, or determinations made by the planning staff regarding the application and interpretation of the Zoning Code, SMC Title 16.

C. International Construction Codes. To hear and decide appeals of orders, decisions, or determinations made by the building official regarding the application and interpretation of the International Construction Codes, SMC Title 15.

D. Majority Vote Required. The concurring vote of two members of the board of adjustment shall be necessary to set aside any order, decision, or determination regarding a requirement or condition placed on an appellant's development application or project for any matter upon which the board is required to pass under this chapter.

2.25.100 Appeals from board of adjustment.

A. Action Final. The action by the board of adjustment shall be final and conclusive unless within 10 days from the date of said action the original appellant or an adverse party makes application to a writ of prohibition or a writ of mandamus.

B. Inclusion of Findings of Fact. The board of adjustment shall, in making an order, decision, or determination, include, in a brief nonverbatim written record of the case, the findings of fact upon which the action is based.

Chapter 2.26
HEARING EXAMINER

Sections:

[2.26.010 Purpose.](#)

[2.26.020 Creation of hearing examiner position.](#)

[2.26.030 Appointment.](#)

[2.26.040 Qualifications.](#)

[2.26.050 Removal.](#)

[2.26.060 Freedom from improper influence.](#)

[2.26.070 Conflict of interest.](#)

[2.26.080 Rules.](#)

[2.26.090 Duties of the examiner – Applications.](#)

[2.26.100 Reports of city departments.](#)

[2.26.110 Public hearing.](#)

[2.26.120 Examiner’s decision.](#)

[2.26.125 Reconsideration of examiner’s decision.](#)

[2.26.130 Notice of examiner’s decision.](#)

[2.26.140 Appeal from examiner’s decision.](#)

[2.26.150 Repealed.](#)

[2.26.160 Repealed.](#)

[2.26.180 Local improvement district assessment roll hearings.](#)

[2.26.190 Variance criteria.](#)

2.26.010 Purpose. 

The purpose of this chapter is to establish a system of land use regulatory hearings which will satisfy the following basic needs:

A. A more prompt opportunity for a hearing and decision on alleged violations of land use regulations, and such other regulations as may be assigned to the hearing examiner;

B. To provide an efficient and effective system for deciding quasi-judicial actions including conditional use applications, variance applications, preliminary subdivision applications, appeals from administrative decisions, and various other procedures as specified in this code (RCW [58.17.330](#)); and

C. To help ensure procedural due process and appearance of fairness by holding such hearings before a neutral party, competent in the fields of land use and procedural requirements. (Ord. 1050-09 § 1; Ord. 979-08 (9/11/08); Ord. 550, 1990)

2.26.020 Creation of hearing examiner position.

Pursuant to Chapter [35A.63](#) RCW, the office of hearing examiner, hereinafter referred to as examiner, is created. Except for appeals of administrative decisions, All land use development regulation and construction code matters of a quasi-judicial nature, not requiring a modification of any ordinance or legislation shall be referred to the examiner who shall interpret, review and implement land use regulations in accordance with the procedures set forth herein. (Ord. 1050-09 § 1; Ord. 979-08 (9/11/08); Ord. 701, 1999; Ord. 550, 1990)

2.26.030 Appointment.

The hearing examiner shall be appointed by the mayor from a list of qualified persons approved by the council. The council shall approve the compensation of the hearing examiner as with other professional and consultant positions. (Ord. 1050-09 § 1; Ord. 979-08 (9/11/08); Ord. 701, 1999; Ord. 550, 1990)

2.26.040 Qualifications.

Examiners shall be appointed solely with regard to their qualifications for the duties of their office and will have such training and experience as will qualify them to conduct administrative or quasi-judicial hearings on regulatory enactments and to discharge the other functions conferred upon them. Examiners shall hold no other elective or appointive office or position in the city of Sultan. (Ord. 1050-09 § 1; Ord. 979-08 (9/11/08); Ord. 550, 1990)

2.26.050 Removal.

The mayor with concurrent majority vote of the city council may remove an examiner from office for cause. (Ord. 1050-09 § 1; Ord. 979-08 (9/11/08); Ord. 550, 1990)

2.26.060 Freedom from improper influence.

No person, including city officials, elected or appointed, shall attempt to influence an examiner in any matter pending before him, except at a public hearing duly called for such purpose, or to interfere with an examiner in the performance of his duties in any other way; provided, that this section shall not prohibit the city's attorney from rendering legal service to the examiner upon request. (Ord. 1050-09 § 1; Ord. 979-08 (9/11/08); Ord. 550, 1990)

2.26.070 Conflict of interest.

No examiner shall conduct or participate in any hearing, decision, or recommendation in which the examiner has a direct or indirect substantial financial or familial interest or concerning which the examiner has had substantial prehearing contacts with proponents or opponents. Nor, in considering an examiner's recommendation, shall any member of the council who has such an interest or has had such contacts participate in consideration thereof. (Ord. 1050-09 § 1; Ord. 979-08 § 1 (9/11/08); Ord. 550, 1990)

2.26.080 Rules.

The examiner shall have the power to prescribe rules for the scheduling and conduct of hearings and other procedural matters related to the duties of his office. Such rules may provide for cross-examination of witnesses. (Ord. 1050-09 § 1; Ord. 979-08 § 1 (9/11/08); Ord. 550, 1990)

2.26.090 Duties of the examiner – Applications.

A. The examiner shall receive and examine available information, conduct fair and impartial public hearings, prepare a record thereof, and enter findings, conclusions, recommendations, or decisions as provided throughout the Sultan Municipal Code.

B. ~~Except for appeals of administrative decisions,~~ the examiner is empowered to act in lieu of the board of adjustment, and such other officials, boards or commissions as may be assigned. Whenever existing ordinances, codes or policies authorize or direct ~~the board of adjustment, or~~ other officials, boards or commissions to undertake certain activities which the examiner has been assigned, such ordinances, codes or policies shall be construed to refer to the examiner.

C. The hearing examiner is empowered consistent with SMC [2.26.125\(D\)](#) and rules adopted by the hearing examiner to reconsider decisions or recommendations of the hearing examiner. (Ord. 1050-09 § 1; Ord. 979-08 § 2 (9/11/08); Ord. 764-01; Ord. 550, 1990)

2.26.100 Reports of city departments.

On any land use issue coming before the examiner, the ~~community development planning~~ director shall coordinate and assemble the reviews of other city departments, governmental agencies, and other interested parties and shall prepare a report summarizing the factors involved ~~and the planning board and/or city council findings and recommendations~~. At least seven calendar days prior to the scheduled hearing, the report shall be filed with the examiner and copies thereof shall be mailed to the applicant and made available for public inspection. Copies thereof shall be provided to interested parties upon payment of reproduction costs. In the event that information to be provided by the applicant or other parties outside of city control has not been provided in sufficient time for filing seven days in advance of the hearing, the examiner may reschedule the hearing and notify interested parties. (Ord. 1050-09 § 1; Ord. 979-08 § 2 (9/11/08); Ord. 550, 1990)

2.26.110 Public hearing.

A. Before rendering a decision or recommendation on any application, the examiner shall hold at least one public hearing thereon.

B. Notice of the time and place of the public hearing shall be given as provided in the ordinance governing the application. If none is specifically set forth, such notice shall be given no less than 10 calendar days before the public hearing.

C. The examiner shall have the power to prescribe rules and regulations for the conduct of hearings under this chapter and also to administer oaths, and preserve order. (Ord. 1050-09 § 1; Ord. 979-08 § 2 (9/11/08); Ord. 821-03 § 1; Ord. 550, 1990)

2.26.120 Examiner's decision.

The hearing examiner shall render a written decision within 10 working days of the conclusion of a hearing, unless the applicant or appellant agrees to a longer period in writing. The decision shall include at least the following:

A. Findings of fact and conclusions of law based upon and supported by the record;

B. A decision on the application, or the appeal, to grant, deny, or grant with such conditions, modifications, and restrictions as the examiner finds reasonable to make the application or appeal compatible with its environment, the Sultan Municipal Code, the city of Sultan comprehensive plan, other official policies and objectives, and land use regulatory enactments. Examples of the kinds of conditions, modifications, and restrictions that may be imposed include but are not limited to additional setbacks, screenings in the form of fencing or landscaping, easements, dedications, or additional right-of-way and performance bonds;

C. A statement of the date the decision will become final. (Ord. 1050-09 § 1; Ord. 979-08 § 3 (9/11/08); Ord. 764-01; Ord. 550, 1990)

2.26.125 Reconsideration of examiner's decision.

A. All decisions or recommendations of the hearing examiner are subject to reconsideration, unless reconsideration is waived. Reconsideration is waived unless within seven calendar days of the date of mailing of the decision or recommendation, the applicant, the city, or a party of record submits a written request for reconsideration in accordance with rules issued by the hearing examiner.

B. Pending reconsideration by the hearing examiner, a decision shall not be deemed final for the purpose of commencement of the period of time in which to commence an appeal.

C. If reconsideration is waived because no timely request for reconsideration is made, the initial decision of the hearing examiner, subject to any right of appeal, shall be deemed final as of the eighth calendar day after the date of mailing of the decision.

D. If a timely request for reconsideration is made, the hearing examiner shall grant or deny reconsideration within 10 working days of the date of receipt of the request for reconsideration. (Ord. 979-08 § 3 (9/11/08); Ord. 1050-09 § 1)

2.26.130 Notice of examiner's decision. 

Not later than three working days following the rendering of a written decision, copies thereof shall be mailed to the applicant and to other parties of record in the case. "Parties of record" shall include the applicant and all other persons who specifically request notice by signing a register provided for such purpose at the public hearing, or otherwise provide written request for such notice. (Ord. 1050-09 § 1; Ord. 979-08 § 4 (9/11/08); Ord. 550, 1990)

2.26.140 Appeal from examiner's decision. 

Examiner's decisions may be appealed to superior court by a party with standing in accordance with the procedures of Chapter [36.70C](#) RCW, or other court of competent jurisdiction as provided by law. (Ord. 1050-09 § 1; Ord. 979-08 § 6 (9/11/08); Ord. 979-08 § 1 (2/14/08); Ord. 550, 1990)

2.26.150 Council consideration. 

Repealed by Ord. 1050-09.(Ord. 979-08 § 7 (9/11/08); Ord. 550, 1990)

2.26.160 Effect of council action. 

Repealed by Ord. 979-08, 9/11/08.(Ord. 550, 1990)

2.26.180 Local improvement district assessment roll hearings. 

A. As authorized by RCW [35.44.070](#), the city council hereby provides for delegating the duty of conducting public hearings for the purpose of considering and making recommendations on final assessment rolls and the individual assessments upon property within local improvement districts to a hearing examiner appointed under this section, and the hearing examiner is directed to conduct such hearings and make those recommendations to the city council.

B. All objections to the confirmation of the assessment roll shall be in writing and identify the property, be signed by the owners and clearly state the grounds of the objection. Objections not made within the time and in the manner prescribed and as required by law shall be conclusively presumed to have been waived.

C. The hearing examiner shall conduct the hearing to be commenced at the time and place designated by the city council, cause an adequate record to be made of the proceedings, and make written findings, conclusions and recommendations to the city council following the completion of such hearings, which may be continued and recontinued as provided by law whenever deemed proper by the hearing examiner, and the city council shall either adopt or reject the recommendations of the hearing examiner.

D. The recommendations of the hearing examiner shall be that the city council correct, revise, lower, change or modify the roll or any part thereof, or set aside the roll in order for the assessment to be made de novo, or that the city council adopt or correct the roll or take other action on the roll as appropriate, including confirmation of the roll without change. The recommendations of the hearing examiner shall be filed with the city clerk and be open to public inspection. All persons whose names appear upon the recommended assessment roll who timely filed written objections to their assessments shall receive mailed written notification of their recommended assessments.

E. Any persons who shall have timely filed objections to their assessments may appeal the recommendations of the hearing examiner regarding their properties to the city council by filing written notice of such appeal with the city clerk within 10 calendar days after the date of mailing of the hearing examiner's recommendations.

F. The appeal shall be based exclusively upon the record made before the hearing examiner and shall be considered by the city council at a public meeting. No new evidence may be presented. Arguments on appeal shall be either oral or written as the city council may order.

G. The city council shall adopt or reject the recommendations of the hearing examiner at a public meeting, after considering any appeals, and shall act by ordinance in confirming the final assessment roll.

H. Any appeal from a decision of the city council regarding any assessment may be made to the superior court within the time and in the manner provided by law.

I. The procedures set forth in this section are independent of and alternative to any other hearing or review processes heretofore or hereafter established by the city, and shall govern the conduct and review of final assessment hearings conducted before hearing examiners and related proceedings when authorized by the city council. (Ord. 1050-09 § 1; Ord. 979-08 § 8 (9/11/08); Ord. 775-01 § 1)

2.26.190 Variance criteria.

No application for a variance shall be granted unless the examiner finds:

A. The variance shall not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties in the vicinity and zone in which the property on behalf of which their application was filed is located; and

B. That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is situated; and

C. That such variance is necessary:

1. Because of special circumstances set forth in the findings relating to size, shape, topography, location or surroundings of the subject property, to provide it with use rights and privileges permitted to other properties in the vicinity and in the zone in which the subject property is located; and

2. Because for reasons set forth in the findings, the variance as approved would contribute significantly to the improvement of environmental conditions, either existing or potentially arising from the proposed improvement. (Ord. 1050-09 § 1; Ord. 979-08 § 9 (9/11/08))

Division I. General Provisions

Chapter 16.01

GENERAL PROVISIONS

Sections:

[16.01.010 Purpose and scope.](#)

[16.01.020 Rules for construction of language.](#)

16.01.010 Purpose and scope.

The purpose of the ~~unified development Zoning Ce~~code is to establish standards, procedures, and minimum requirements for land use and development regulation in the City of Sultan~~to and thereby~~ achieve the following general intentions and purposes of the ~~city of Sultan~~ Comprehensive Plan:

- A. To establish regulatory procedures and standards for review and approval of all proposed development in the city.
- B. To foster and preserve public health, safety, comfort, and welfare, and to aid in the harmonious, orderly, aesthetically pleasing, and socially beneficial development of the city, ~~in accordance with the comprehensive plan.~~
- C. To adopt a development review process that is:
 1. Efficient, in terms of time and expense relative to staff resources;
 2. Effective, in terms of addressing the natural, historic, and aesthetic resources and public facility implications of any proposed development, while also protecting and improving the quality of life in the city; and
 3. Equitable, in terms of consistency with established regulations and procedures, respect for the rights of all property owners, and consideration of the interests of the citizens and residents of the city.
- D. To implement the comprehensive plan of the city by:
 1. Establishing regulations and conditions governing the erection and use of buildings and other structures and the uses of land ~~planned for the future as specified in the comprehensive plan~~;
 2. Securing safety from fire, panic, and other dangers;
 3. Lessening automobile congestion of the streets;
 4. Providing for adequate light and air;
 5. Preventing the overcrowding of land;

6. Avoiding undue congestion of population and facilitating the adequate provision of transportation, potable water, sanitary sewage disposal, schools, parks, and other public requirements of the city;

7. Dividing the city into zoning districts, defining certain terms, designating the land uses and intensities thereof that are permitted in the different districts, and providing lot size and other dimensional and density requirements for new development;

8. Establishing a separate and distinct map of permitted land uses of said zoning districts along specific property lines and natural boundaries to implement the Comprehensive Plan land use map of future planned land uses, which are not necessarily the same as the current permitted land uses as shown for the districts on the Zoning Map;

98. Establishing performance standards that apply to all new development as well as the redevelopment of all lands in the city;

109. Continuing a planning commissionboard, including the composition of its membership and powers and duties of said commissioncitizen board;

110. Defining the functions of the building and zoning official, hearing examiner, planning commissionboard, and city council and other relevant agencies with respect to the administration and enforcement of this unified development the Zoning Code and other development regulations.

~~E. To regulate the subdivision of land to ensure that adequate drainage facilities are provided in developing portions of the city; to promote coordinated land development; and to require uniform monumenting of land subdivisions and conveyance by accurate legal description.~~

~~F. To regulate the division of land into four or fewer lots, parcels, sites, or subdivisions.~~

~~EG. To be consistent with the city of Sultan's comprehensive plan by~~ E ensuring that all development in the city will be served by adequate public infrastructure facilities consistent with the City of Sultan Comprehensive Plan.

~~FH.~~ To require that all new land development activity contribute its proportionate share of the funds, land, and/or public facilities necessary to accommodate the impacts that such new development has on public facilities and services having a rational nexus to the proposed development and for which the need is reasonably attributable to the proposed development.

~~GI. To provide for a penalty for the violation of this unified development~~ enforce the development regulations in the Zoning Code. (Ord. 630 § 2 [16.01], 1995)

16.01.020 Rules for construction of language. 

The following rules of construction apply to the text of this unified development code:

A. The particular shall control the general.

B. In case of any difference of meaning or implication between the text of ~~this unified development the~~ Zoning Code and any caption, illustration, summary table, or illustrative table, the text shall control.

C. The word “shall” is always mandatory and not discretionary. The word “should” is permissive and is discretionary.

D. Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.

E. A “building” or “structure” includes any part thereof.

F. The phrase “used for” includes “arranged for,” “designed for,” “maintained for” or “occupied for.”

G. The word “person” includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.

H. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction “and,” “or,” or “either or,” the conjunction shall be interpreted as follows:

1. “And” indicates that all the connected items, conditions, provisions, or events shall apply.

2. “Or” indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.

3. “Either/or” indicates that the connected items, conditions, provisions, or events shall apply singly but not in combination.

I. The word “includes” shall not limit a term to the specified examples, but is intended to extend its meaning to all other instances or circumstances of like kind or character.

J. The use of any gender-based pronoun shall not be construed to be gender-biased, but is only used for grammatical simplicity. (Ord. 630 § 2 [16.04.10], 1995)

Division II. Zoning Districts

Chapter 16.08

ESTABLISHMENT OF ZONING DISTRICTS

Sections:

[16.08.010 Establishment of zoning districts.](#)

[16.08.020 Establishment of zoning maps.](#)

16.08.010 Establishment of zoning districts.

The City of Sultan is hereby divided into ~~seven~~eight zoning districts as follows:

A. Low/~~moderate~~ density zone (~~LM~~D);

B. Moderate density zone (MD);

C. High density zone (HD);

D. Neighborhood commercial zone (NC)

D. Urban center zone (UC);

E. Highway-oriented ~~development~~commercial zone (~~HOCD~~);

F. ~~Economic development~~Manufacturing zone (~~EDM~~);

G. Public ~~and institutional buildings, parks, and open space~~ zone (~~PAB/P/OS~~). (Ord. 1072-10 § 1 (Exh. B); Ord. 630 § 2[16.02], 1995)

16.08.020 Establishment of zoning maps.

A. The boundaries and identification of the zoning districts established by ~~this unified development the Zoning C~~ode are shown on the zoning map which is filed in the office of the city clerk/treasurer (with copies in the office of the building and zoning official). Said map is hereby declared to be part of ~~this unified development the Zoning C~~ode as fully as set out herein.

B. No building or land shall be used and no building shall be erected or altered except in conformity with the regulations herein prescribed for the district designated and identified on the zoning district map in which such building, land, or water is located.

C. Interpretation of the Zoning Map.

1. Zoning district boundaries are shown as heavy solid lines on the zoning map and may be superimposed on lighter lines designating platted lot lines, streets, and other physically identifiable

ground features, unless specific distances in feet or angles, bearings, radii, or other references to a boundary line located are specified.

2. Zoning district boundary lines, when located in streets or other public rights-of-way shall be interpreted as being located in the center line of such rights-of-way. When distances expressed as linear footage are shown between a zoning district and a street, the distance shall be interpreted as being between said boundary line and the center line of said street, unless otherwise specified.

3. Boundary lines between zoning districts which are interrupted on the zoning map to show street names or other identification numbers shall be interpreted as extending through such identification, unless otherwise specified.

4. When the exact location of a zoning district boundary line is not clear, it shall be determined by the building and zoning official, with due consideration given to the location as indicated by the scale of the zoning map. When, for any reason, the streets or alleys as they actually exist on the ground differ from the depiction of said streets and alleys as they are shown on the zoning map, the building and zoning official may apply the district designations on the map to the streets on the ground in such manner as to conform to the intent and purpose of ~~this unified development~~ the Zoning Code.

5. Where a zoning district boundary line shown on the zoning map divides a lot of record at the time of the adoption of ~~this unified development~~ the Zoning Code, the property owner shall have the option of choosing either of the two districts to apply to the entire lot area, or may subdivide the lot to retain both districts as mapped; provided, that all of the standards and requirements of the relevant performance standards can be met. (Ord. 630 § 2 [16.03], 1995)

D. Zoning Map Amendments.

The Zoning Map is forthwith separate and distinct from the Future Land Use Map (Comprehensive Plan Figure LU-1). The Zoning Map depicts the zoning districts along specific property lines (except as noted above) and along natural boundary geographic features such as steep slopes, floodways, rivers and streams, wetlands, etc. The Future Land Use Map Figure LU-1 depicts land uses planned for future development that may not be the same as current land uses shown on the Zoning Map. The boundaries of different land uses shown on the Future Land Use Map should not be considered precise boundaries along specific property lines as the zoning district boundaries are intended. Instead, the Future Land Use Map may have imprecise boundaries between different land uses allowing for a margin of flexibility to property owners in changing the long-range planning designation for the future land use in the vicinity of their properties.

Accordingly, the City of Sultan will allow for amendments to the Zoning Code Map to be applied for independent of the annual docketing process required for Comprehensive Plan amendments to the Future Land Use Map. The Zoning Code Map amendment process will follow procedures similar to Zoning Code development regulation text amendments. Applicants as well as the City may apply for both Zoning Code map and text amendments through a public hearing process before the City Council after review and recommendation from the Planning Board. Zoning Code map and text amendments

are legislative actions. Only large area rezones or revisions to existing zoning district boundaries will be considered by application, and site-specific rezones that can be categorized as "spot zones" will not be considered as a legal Zoning Code Map amendment.

Chapter 16.17

CONDITIONAL USE PERMITS

Sections:

[16.17.010 Purpose.](#)

[16.17.020 Uses requiring a conditional use permit.](#)

[16.17.030 Application – Requirements and fees.](#)

[16.17.050 Criteria.](#)

~~[16.17.052 Repealed.](#)~~

~~[16.17.054 Additional criteria for duplexes or two family dwellings.](#)~~

[16.17.060 Expiration and renewal.](#)

[16.17.070 Revocation of permit.](#)

[16.17.080 Performance bond and other security.](#)

[16.17.090 Resubmittal of application.](#)

16.17.010 Purpose.

It is the purpose of this chapter to establish review and permit approval procedures for unusual or unique types of land uses, which, due to their nature, require special consideration of their impact on the neighborhood, and land uses in the vicinity. The uses approved under the provisions of this chapter may be located in zone districts listing the use as a “conditional use” under such conditions as the hearing examiner may approve. (Ord. 1052-09 § 1; Ord. 983-08 § 2; Ord. 690-98)

16.17.020 Uses requiring a conditional use permit.

The following are the uses that require a conditional use permit:

A. ~~The~~All uses listed in the ~~use-zoning~~ districts as “conditional uses” require a conditional use permit in order to locate and operate or expand in an appropriate ~~zoning~~ district within the city.

~~B. Existing nonconforming uses which wish to expand.~~ (Ord. 1052-09 § 1; Ord. 983-08 § 2; Ord. 955-07 § 3; Ord. 690-98)

16.17.030 Application – Requirements and fees.

A. Application for conditional use permits shall be filed with the ~~planning department~~ city on forms prescribed by ~~that office~~ the planning director.

B. A filing fee in the amount set by the fee schedule adopted by the city council shall accompany all applications.

C. The hearing examiner will conduct public hearings on conditional uses and may deny, approve, or approve with conditions.

D. Conditional use applicants must adhere to all applicable public notification requirements.

E. Denial of conditional use permit applications is appealable to superior court as provided in SMC 2.26.140. (Ord. 1052-09 § 1; Ord. 983-08 § 2; Ord. 690-98)

Hearing Examiner's decisions may be appealed to superior court by a party with standing in accordance with the procedures of Chapter 36.70C RCW, or other court of competent jurisdiction as provided by law. (Ord. 1050-09 § 1; Ord. 979-08 § 6 (9/11/08); Ord. 979-08 § 1 (2/14/08); Ord. 550, 1990)

16.17.050 Criteria. 

The following criteria shall apply in granting a conditional use permit:

A. The proposed conditional use will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity of the proposed conditional use or in the zoning district in which the subject property is situated;

B. The proposed conditional use shall meet or exceed the performance standards that are required in the zoning district that it will occupy;

C. The proposed conditional use shall be compatible generally with the surrounding land uses in terms of traffic and pedestrian circulation, building and site design as approved by the ~~design review committee~~ planning director;

D. The proposed conditional use shall be consistent with the goals and policies of the comprehensive land use policy plan;

E. All measures have been taken to ~~minimize~~ mitigate the possible adverse impacts which the proposed use may have ~~on the area in the zoning district~~ in which ~~it the subject property~~ is located. (Ord. 1052-09 § 1; Ord. 983-08 § 2; Ord. 690-98)

~~**16.17.052 Additional criteria for single family detached dwelling (clustered).**~~ 

~~Repealed by Ord. 1082-10. (Ord. 1052-09 § 1; Ord. 983-08 § 2; Ord. 780-02 § 16)~~

~~**16.17.054 Additional criteria for duplexes or two family dwellings.**~~ 

The following additional criteria apply to allow duplexes or two-family dwellings:

~~The proposed dwelling has been designed to be harmonious with the neighborhood and is constructed to provide the appearance of a single family unit by, for example, altering the location of the front doors and windows; garages and access to garages; parking; landscaping and fencing; utilities and mailbox locations; building heights consistent with surrounding properties; exterior colors and materials; and differing setbacks, all of which are confirmed by a site plan. (Ord. 1081-10 § 1; Ord. 1052-09 § 1; Ord. 983-08 § 2; Ord. 780-02 § 17)~~

16.17.060 Expiration and renewal.

- A. A conditional use permit shall automatically expire one year after a notice of decision approving the permit is issued unless a development authorization or building permit conforming to plans for which the CUP was granted is obtained within that period of time.
- B. A conditional use permit shall automatically expire unless substantial construction of the proposed development is completed within two years from the date a notice of decision approving the permit is issued.
- C. The hearing examiner may authorize longer periods for a conditional use permit if appropriate for the project.
- D. The hearing examiner may grant a single renewal of the conditional use permit if the party seeking the renewal can demonstrate extraordinary circumstances or conditions not known or foreseeable at the time the original application for a conditional use permit was granted. No public hearing is required for a renewal of a conditional use permit. (Ord. 1052-09 § 1; Ord. 983-08 § 2; Ord. 690-98)

16.17.070 Revocation of permit.

- A. The hearing examiner may revoke or modify a conditional use permit. Such revocation or modification shall be made on any one or more of the following grounds:
 - 1. That the approval was obtained by deception, fraud, or other intentional and misleading representations;
 - 2. That the use for which such approval was granted has been abandoned;
 - 3. That the use for which such approval was granted has at any time ceased for a period of one year or more;
 - 4. That the permit granted is being exercised contrary to the terms or conditions of such approval or in violation of any statute, resolution, code, law or regulation; or
 - 5. That the use for which the approval was granted was so exercised as to be detrimental to the public health or safety.

B. Any aggrieved party may petition the hearing examiner in writing to initiate revocation or modification proceedings.

C. Before a conditional use permit may be revoked or modified, a public hearing shall be held. Procedures concerning notice and reporting for petition to revoke or modify a conditional use permit shall be the same as required by this chapter for the initial consideration of a conditional use permit application. (Ord. 1052-09 § 1; Ord. 983-08 § 2; Ord. 690-98)

16.17.080 Performance bond and other security. 

A performance bond or other adequate and appropriate security may be required for any elements of the proposed project which the hearing examiner determines are crucial to the protection of the public welfare. Such bond shall be in an amount equal to 125 percent of the cost of the installation or construction of the applicable improvements. (Ord. 1052-09 § 1; Ord. 983-08 § 2; Ord. 690-98)

16.17.090 Resubmittal of application. 

An application for a conditional use permit, which has been denied, may not be resubmitted within six months from the date of denial. (Ord. 1052-09 § 1; Ord. 983-08 § 2; Ord. 690-98)

**Chapter 16.18
NONCONFORMANCES**

Sections:

[16.18.010 Nonconformances – Continuance.](#)

[16.18.020 Nonconformances – Lots smaller than required minimums.](#)

[16.18.030 Nonconforming lots – Setbacks.](#)

[16.18.040 Nonconforming lots – Applicability.](#)

[16.18.050 Nonconformances – Adjoining lots.](#)

[16.18.051 Nonconforming accessory dwelling units.](#)

[16.18.060 Extension or enlargement of nonconforming situations.](#)

[16.18.070 Nonconformances – Repair, maintenance, and construction.](#)

[16.18.080 Change in use of property where a nonconforming situation exists.](#)

[16.18.090 Abandonment and discontinuance of nonconforming situations uses.](#)

[16.18.100 ~~Completion of nonconforming projects~~ Destruction of nonconforming uses and/or buildings.](#)

16.18.010 Nonconformances – Continuance. 

Unless otherwise specifically provided in this unified development code, nonconforming situations that were otherwise lawful on the effective date of this code may be continued. (Ord. 1057-09 § 1; Ord. 1051-09 § 1; Ord. 715-00; Ord. 630 § 2 [16.06.160(A)], 1995)

16.18.020 Nonconformances – Lots smaller than required minimums. 

When a nonconforming lot can be used in conformity with all of the requirements applicable to the intended use, except that the lot is smaller than the required minimums set forth in the dimensional and density requirements for each zoning district, then the lot may be used as proposed just as if it were conforming. (Ord. 1057-09 § 1; Ord. 1051-09 § 1; Ord. 715-00; Ord. 630 § 2[16.06.160(B)], 1995)

16.18.030 Nonconforming lots – Setbacks. 

When the use proposed for a nonconforming lot is one that is conforming in all other respects, but the applicable setback requirements cannot reasonably be complied with, then the zoning official may allow variances from the applicable setback requirements if he/she finds that:

- A. The property cannot reasonably be developed for the use proposed without such deviations;
- B. These deviations are necessitated by the size or shape of the nonconforming lot;
- C. The property can be developed as proposed without any significantly adverse impact on surrounding properties or the public health or safety; and
- D. Compliance with applicable building setback requirements is not reasonably possible if a building that serves the minimal needs of the use proposed for the nonconforming lot cannot practicably be constructed and located on the lot in conformity with such setback requirements. However, financial hardship does not constitute grounds for finding that compliance is not reasonably possible. (Ord. 1057-09 § 1; Ord. 1051-09 § 1; Ord. 715-00; Ord. 630 § 2[16.06.160(C)], 1995)

16.18.040 Nonconforming lots – Applicability. 

This chapter applies only to undeveloped nonconforming lots. A lot is undeveloped if it has no substantial structures upon it. (Ord. 1057-09 § 1; Ord. 1051-09 § 1; Ord. 715-00; Ord. 630 § 2 [16.06.160(D)], 1995)

16.18.050 Nonconformances – Adjoining lots. 

If, on the date this unified development code becomes effective, an undeveloped nonconforming lot adjoins and has continuous frontage with one or more other undeveloped lots under the same ownership, then neither the owner of the nonconforming lot nor his successors in interest may take advantage of the provisions of this chapter. This requirement shall not apply to a nonconforming lot if a majority of the developed lots located on either side of the street where such lot is located and within 500 feet of such lot are also nonconforming. The intent of this chapter is to require nonconforming lots to be combined with other undeveloped lots to create conforming lots under the circumstances specified herein, but not to require such combination when that would be out of character with the way the neighborhood has previously been developed. (Ord. 1057-09 § 1; Ord. 1051-09 § 1; Ord. 715-00; Ord. 630 § 2[16.06.160(E)], 1995)

16.18.051 Nonconforming accessory dwelling units. 

A. Commencing on October 1, 2003, a registration period of six months, ending April 1, 2004, at 5:00 p.m. is hereby established for the registration of legal nonconforming and illegal detached and attached accessory dwelling units (ADU). No fees shall be charged for such registration. Accessory dwelling unit (ADU) is defined in SMC [16.150.010\(6\)\(a\)](#). Upon receipt of the registration, the city shall develop a schedule for the inspection of such accessory dwelling units to determine compliance with the State Building and Fire Codes. An inspection of such structures by the state Electrical Inspector shall also be requested if no records of a prior electrical inspection are provided by the registrant.

B. Nonconforming Structures. An attached or detached ADU, which qualifies as a legal nonconforming structure as defined in SMC [16.150.140\(9\)](#), shall be inspected to determine whether it was in compliance with the State Building and Fire Codes in existence at the date it was constructed. An

applicant shall submit a final occupancy permit issued by the city of Sultan or Snohomish County, as appropriate, with respect to said ADU prior to the date said use was regulated by the agency with jurisdiction, as proof of its legal nonconformity or such other proof as may be reasonably available. Upon an adequate showing of nonconformity as determined at the discretion of the city, the ADU shall be required to meet the provisions of the State Building and Fire Codes which are applicable to any building or structure and are considered life safety codes. The city shall issue a certificate of noncompliance noting the size and characteristics of the ADU and the structure in which it is located in order to permit its use and continuation and to determine its compliance with the other provisions of SMC 16.25.010. Such registration of legal nonconforming structures may include both attached and detached units which were in conformance with the applicable provisions of law and ordinance at the date constructed.

C. Registration of Illegal Accessory Dwelling Units. ADUs which were not legal uses at the date constructed may be registered during the registration period set forth in subsection (A) of this section. Registration shall be accompanied by the fee established for the issuance of a permit for each ADU with such fees to be used to defray the cost of building, fire and other inspections. The city shall establish an inspection schedule for ADUs. Certificates of registration and permit shall be issued to the former illegal structure granting the privileges of a legal nonconforming structure subject to the provisions of SMC 16.25.010 upon certification that the structure is or has been brought into compliance with all current provisions of the State Building Code and city ordinance.

1. Once registered, a formerly illegal ADU shall enjoy all the protections and privileges afforded to a nonconforming structure under the provisions of this section; provided, however, that such ADU shall be subject to the permit review requirement of SMC 16.25.010 to the end that the city council reserves the right to impose additional conditions on the continued use and occupancy of the formerly illegal ADU if it is found to constitute a nuisance or present a hazardous condition, or to revoke such registration and permit if a nuisance or hazardous condition relating to the ADU is not abated.

2. The provisions of this subsection (C) shall apply to both attached and detached accessory dwelling units; provided, however, that such ADUs shall be registered and permitted to continue subject to the provisions of this section only if they were constructed in good faith by construction completed prior to December 31, 1999.

D. Legal nonconforming units shall receive a permit certificate confirming such status and listing the physical dimensions and other characteristics of the structure; provided, however, that the registration and permit of a formerly illegal ADU may be revoked and/or conditioned in accordance with the provisions of SMC 16.25.010.

E. Failure to register a structure within the time period established by the provisions of this section shall be considered to be presumptive proof that such a unit is an illegal unit and subject to abatement. The owner of such structure may overcome such a presumption only by presentation of substantial and competent evidence which establishes the legal nonconforming nature of such building by clear and convincing evidence that the structure was permitted by Snohomish County or the city of Sultan and

was in complete compliance with the applicable provisions of state law and county or city ordinance, at the date such construction was initiated and was completed. (Ord. 1057-09 § 1; Ord. 1051-09 § 1; Ord. 823-03 § 2)

16.18.060 Extension or enlargement of nonconforming situations. 

A. Except as specifically provided in this section, no person may engage in any activity that causes an increase in the extent of nonconformity of a nonconforming situation. In particular, physical alteration of structures or the placement of new structures on open land is unlawful if such activity results in:

1. An increase in the total amount of space devoted to a nonconforming use; or
2. Greater nonconformity with respect to dimensional restrictions such as setback requirements, height limitations, density requirements, or other regulations such as parking requirements.

B. Subject to subsection (D) of this section, a nonconforming use may be extended throughout any portion of a completed building that, when the use was made nonconforming by this unified development code, was manifestly designed or arranged to accommodate such use. However, a nonconforming use may not be extended to additional buildings or to land outside the original building.

C. A nonconforming use of open land may not be extended to cover more land than was occupied by that use when it became nonconforming. The volume, intensity, or frequency of use of property where a nonconforming situation exists may be increased, and the equipment or processes used at a location where a nonconforming situation exists may be changed, if these or similar changes amount only to changes in the degree of activity rather than changes in kind and no violations of other requirements of this section occur.

D. Notwithstanding subsection (A) of this section, any structure used for single-family detached residential purposes and maintained as a nonconforming use may be enlarged or replaced with a similar structure of a larger size, so long as the enlargement or replacement does not create new nonconformities or increase the extent of existing nonconformities with respect to such matters as setback and parking requirements.

E. Notwithstanding subsection (A) of this section, whenever: (1) there exists a lot with one or more structures on it; and (2) a change in use that does not involve any enlargement of a structure is proposed for such lot; and (3) the off-street parking or loading requirements of this code that would be applicable as a result of the proposed change cannot be satisfied on such lot because there is not sufficient area available on the lot that can practicably be used for off-street parking or loading, then the proposed use shall not be regarded as resulting in an impermissible extension or enlargement of a nonconforming situation. However, the applicant shall be required to comply with all applicable off-street parking and loading requirements that can be satisfied without acquiring additional land, and shall also be required to obtain satellite off-street parking if: (1) parking requirements cannot be satisfied on the lot with respect to which the permit is required; and (2) such off-street satellite parking is available within 500 feet of the site said satellite parking area is intended to serve, measured from

property line to property line. If such off-street satellite parking is not reasonably available at the time the permit is granted, then the permit recipient shall be required to obtain it if and when it does become reasonably available. This requirement shall be a continuing condition of the permit. (Ord. 1057-09 § 1; Ord. 1051-09 § 1; Ord. 955-07 § 1; Ord. 1051-09 § 1; Ord. 715-00; Ord. 630 § 2 [16.06.160(F)], 1995)

16.18.070 Nonconformances – Repair, maintenance, and construction.



A. Minor repairs to and routine maintenance of property where nonconforming situations exist are permitted and encouraged. Major renovation, i.e., work estimated to cost more than 25 percent of the appraised valuation of the structure to be renovated, may be done only in accordance with a permit issued pursuant to this unified development code.

B. If a structure located on a lot where a nonconforming situation exists is damaged to an extent that the costs of repair or replacement would exceed 25 percent of the appraised valuation of the damaged structure, then the damaged structure may be repaired or replaced only in accordance with a permit issued pursuant to this unified development code. This section does not apply to structures used for single-family detached residential purposes, which structures may be reconstructed pursuant to a permit just as they may be enlarged or replaced.

C. For purposes of subsections (A) and (B) of this section:

1. The “cost” of renovation or repair or replacement shall mean the fair market value of the materials and services necessary to accomplish such renovation, repair, or replacement.
2. The “cost” of renovation or repair or replacement shall mean the total cost of all such intended work, and no person may seek to avoid the intent of subsection (A) or (B) of this section by doing such work incrementally. An itemized appraisal of the work shall be prepared by an independent professional and provided to the city by the applicant.
3. The “appraised valuation” shall mean either the appraised valuation for property tax purposes, updated as necessary by the increase in the consumer price index since the date of the last valuation, or the valuation determined by a professionally recognized property appraiser.

D. The director of community development shall issue a permit authorized by this section if it finds that, in completing the renovation, repair or replacement work:

1. No violation of subsection (B) of this section will occur;
2. The permittee will comply to the extent reasonably possible with all provisions of this code applicable to the existing use (except that the permittee shall not lose his or her right to continue a nonconforming use); and
3. Compliance with a requirement of this code is not reasonably possible if it cannot be achieved without adding additional land to the lot where the nonconforming situation is maintained or moving a

substantial structure that is on a permanent foundation. Mere financial hardship caused by the cost of meeting such requirements as paved parking does not constitute grounds for finding that compliance is not reasonably possible. (Ord. 1057-09 § 1; Ord. 1051-09 § 1; Ord. 955-07 § 2; Ord. 715-00; Ord. 630 § 2[16.06.160(G)], 1995)

16.18.080 Change in use of property where a nonconforming situation exists. 

A. A change in use of property (where a nonconforming situation exists) that is sufficiently substantial to require an amendment in accordance with Chapter [16.128](#) SMC may not be made, except in accordance with subsections (B) and (C) of this section.

B. If the intended change in use is to a principal use that is permissible in the zoning district where the property is located, and all of the other requirements of this code applicable to that use can be complied with, permission to make the change must be obtained in the same manner as permission to make the initial use of a vacant lot. Once conformity with this code is achieved, the property may not revert to its nonconforming status.

C. If the intended change in use is to a principal use that is permissible in the zoning district where the property is located, but all of the requirements of this code applicable to that use cannot reasonably be complied with, then the change is permissible if the city council approves an application authorizing the change. A permit may be issued if the director of community development finds, in addition to any other findings that may be required by this code, that:

1. The intended change will not result in a violation of SMC [16.16.020](#); and
2. All of the applicable requirements of this code will be reasonably complied with. Compliance with a requirement of this code is not reasonably possible if it cannot be achieved without adding additional land to the lot where the nonconforming situation is maintained or moving a substantial structure that is on a permanent foundation. Mere financial hardship caused by the cost of meeting such requirements as paved parking does not constitute grounds for finding that compliance is not reasonably possible. And, in no case may an applicant be given permission pursuant to this section to construct a building or add to an existing building if additional nonconformities would thereby be created. (Ord. 1057-09 § 1; Ord. 1051-09 § 1; Ord. 715-00; Ord. 630 § 2 [16.06.160(H)], 1995)

16.18.090 Abandonment and discontinuance of nonconforming ~~situations~~uses. 

A. If ~~the principal activity on property where a nonconforming situation other than a legal~~ nonconforming use ~~exists~~ is discontinued for a consecutive period of 180 calendar days, then that property may thereafter be used only in conformity with ~~all of the current~~ [Zoning Code](#) regulations. ~~A permit may be issued if the council finds that eliminating a particular nonconformity is not reasonably possible (i.e., cannot be accomplished without adding additional land to the lot where the nonconforming situation is maintained or moving a substantial structure that is on a permanent foundation). The permit shall specify which nonconformities need not be corrected.~~

B. For purposes of determining whether a right to continue a nonconforming situation is lost pursuant to this section, all of the buildings, activities, and operations maintained on a lot are generally to be considered as a whole. For example, the failure to rent one apartment in a nonconforming apartment building for 180 calendar days shall not result in a loss of the right to rent that apartment or space thereafter, so long as the apartment building as a whole is continuously maintained. But if a nonconforming use is maintained in conjunction with a conforming use, discontinuance of a nonconforming use for the required period shall terminate the right to maintain it thereafter. (Ord. 1057-09 § 1; Ord. 1051-09 § 1; Ord. 715-00; Ord. 630 § 2[16.06.160(I)], 1995)

16.18.100 ~~Completion of nonconforming projects~~ Destruction of nonconforming uses and/or buildings. 

~~A. All nonconforming projects-use and/or building cannot be maintained if more than 50% of the assessed value of improvements on the subject property is lost by any form of destruction whether through man-made or natural causes. Then, the subject property may thereafter be used only in conformity with the current Zoning Code regulations, on which construction was begun before the effective date of this code, as well as all nonconforming projects that are at least 10 percent completed in terms of the total expected cost of the project (excluding land acquisition) on the effective date of this code, may be completed in accordance with the terms of their permits, so long as these permits were validly issued and remain unrevoked and unexpired. If a development is designed to be completed in stages, this section shall apply only to the particular phase under construction.~~

~~B. Except as provided in subsection (A) of this section, all work on any nonconforming project shall cease on the effective date of this code, and all permits previously issued for work on nonconforming projects may begin or may be continued only pursuant to a permit issued in accordance with this section for the type of development proposed. The hearing examiner shall order the issuance of such a permit if it finds that the applicant has in good faith made substantial expenditures or incurred substantial binding obligations or otherwise changed his position in some substantial way in reasonable reliance on the code as it existed before the effective date of this code and, thereby, would be unreasonably prejudiced if not allowed to complete his project as proposed. In considering whether these findings may be made, the hearing examiner shall be guided by the following, as well as other relevant considerations:~~

~~1. All expenditures made to obtain or pursuant to a validly issued and unrevoked development permit shall be considered as evidence of reasonable reliance on the code that existed before this code became effective.~~

~~2. Except as provided in subsection (B)(1) of this section, no expenditures made more than three years before the effective date of this code may be considered as evidence of reasonable reliance on the law that existed before this code became effective.~~

~~3. To the extent that expenditures are recoverable with a reasonable effort, a party shall not be considered prejudiced by having made those expenditures. For example, a party shall not be considered prejudiced by having made some expenditure to acquire a potential development site if the property~~

~~obtained is approximately as valuable under the new classification as it was under the old, for the expenditure can be recovered by a resale of the property.~~

~~4. To the extent that a nonconforming project can be made conforming and that expenditures made or obligations incurred can be effectively utilized in the completion of a conforming project, a party shall not be considered prejudiced by having made such expenditures.~~

~~5. An expenditure shall be considered substantial if it is equal to 10 percent or more of the total estimated cost of the proposed project (excluding land acquisition).~~

~~6. A person shall be considered to have acted in good faith if actual knowledge of a proposed change in the code affecting the proposed development site could not be attributed to him or her.~~

~~7. Even though a person had actual knowledge of a proposed change in the code affecting a development site, the hearing examiner may still find that he or she acted in good faith if he or she did not proceed with his or her plans in a deliberate attempt to circumvent the effects of this code. The hearing examiner may find that the developer did not proceed in an attempt to undermine the code if it determines that: (a) at the time the expenditures were made, either there was considerable doubt about whether any code would ultimately be passed, or it was not clear that the proposed code would prohibit the intended development, and (b) the developer had legitimate business reasons for making expenditures.~~

~~C. When it appears from the developer's plans or otherwise that a project was intended to be or reasonably could be completed in phases, stages, segments, or other discrete units, the developer shall be allowed to complete only those phases or segments with respect to which the developer can make the showing required under subsection (B) of this section. The hearing examiner shall, in determining whether a developer would be unreasonably prejudiced if not allowed to complete phases or segments of a nonconforming project, consider the following in addition to other relevant factors:~~

~~1. Whether any plans prepared or approved regarding uncompleted phases constitute conceptual plans only or construction drawings based upon detailed surveying, architectural, or engineering work.~~

~~2. Whether any improvements, such as streets or utilities, have been installed in phases not yet completed.~~

~~3. Whether utilities and other facilities installed in completed phases have been constructed in such a manner or location or such a scale, in anticipation of connection to or interrelationship with approved but uncompleted phases, that the investment in such utilities or other facilities cannot be recouped if such approved but uncompleted phases are constructed in conformity with existing regulations.~~

~~D. The hearing examiner shall not consider any application for the permit authorized by subsection (B) of this section that is submitted more than 60 working days after the effective date of this code. The hearing examiner may waive this requirement for good cause shown, but in no case may it extend the application deadline beyond one year.~~

~~E. The hearing examiner shall send copies of this section to the persons listed as owners for tax purposes (and developers, if different from the owners) of all properties in regard to which permits have been issued for nonconforming projects or in regard to which a nonconforming project is otherwise known to be in some stage of development. This notice shall be sent by certified mail not less than 15 working days before the effective date of this code.~~

~~F. The hearing examiner shall establish expedited procedures for hearing applications for permits under this section. These applicants shall be heard, whenever possible, before the effective date of this code so that construction work is not needlessly interrupted.~~ (Ord. 1057-09 § 1; Ord. 1051-09 § 1; Ord. 715-00; Ord. 630 § 2 [16.06.160(J)], 1995)

Chapter 16.19

VARIANCES

Sections:

16.19.10 Purpose.

16.19.020 Variance Process.

16.19.030 Variance Criteria.

16.19.040 Variance Appeal.

16.19.010 Purpose.

It is the purpose of this chapter to establish review and approval procedures for unusual or unique physical hardships that may be encountered when improving a site specific piece of property. The criteria for granting a variance for the dimension requirements of the Zoning Code are intentionally stringent, and approval of a variance does not set precedent for any other variance. No variance for an exception to the uses allowed in a particular zoning district can be approved.

16.19.020 Variance Process.

An application of a variance can be made to the City of Sultan on a form provided by the Planning Staff. Information that may be required for variance review process and decision by Hearing Examiner can also be provided by the Planning Staff.

16.19.030 Variance Criteria.

No application for a variance shall be granted unless the Hearing Examiner finds:

A. The variance shall not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties in the vicinity and zone in which the property on behalf of which their application was filed is located; and

B. That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is situated; and

C. That such variance is necessary:

1. Because of special circumstances set forth in the findings relating to size, shape, topography, location or surroundings of the subject property, to provide it with use rights and privileges permitted to other properties in the vicinity and in the zone in which the subject property is located; and

2. Because for reasons set forth in the findings, the variance as approved would contribute significantly to the improvement of environmental conditions, either existing or potentially arising from the proposed improvement. (Ord. 1050-09 § 1; Ord. 979-08 § 9 (9/11/08))

16.19.040 Variance Appeal.

The decision of the Hearing Examiner on a variance application is final. Hearing Examiner's decisions may be appealed to superior court by a party with standing in accordance with the procedures of Chapter 36.70C RCW, or other court of competent jurisdiction as provided by law. (Ord. 1050-09 § 1; Ord. 979-08 § 6 (9/11/08); Ord. 979-08 § 1 (2/14/08); Ord. 550, 1990)

Division IV. Performance Standards

Chapter 16.20

PERFORMANCE STANDARDS – GENERAL

Sections:

[16.20.010 Administration.](#)

[16.20.020 Residential performance standards Purpose.](#)

16.20.010 Administration. 

The performance standards in ~~SMC Chapters 16.24~~ through ~~16.48104SMC~~ are adopted to set reasonable criteria for development to achieve the goals and objectives of the comprehensive plan for Sultan. These standards shall be administered by the responsible governmental agency or department of the city. (Ord. 630 § 2[16.10], 1995)

[16.20.020 Residential performance standards Purpose.](#)

~~A. Purpose.~~ The purpose of the performance standards in ~~SMC Chapters 16.24~~ through ~~16.4852SMC~~ is to describe those ~~general and~~ supplemental regulations which apply to specified residential land uses over and above those dimensional and density requirements imposed elsewhere by ~~this unified development Zoning Ceode~~. These performance standards regulate ~~the building placement and dwelling unit type, and are necessary for~~ those land uses having characteristics that may have negative-adverse impacts without the additional regulations.

~~B. General Residential Uses.~~

~~1. Purpose. It is the intent of this section to describe allowable dwelling unit types and other standards that apply to all residential uses within the city.~~

~~2. Standards. The development of any residential use shall be permitted only in full compliance with the following standards and regulations:~~ (Ord. 630 § 2[16.10.010], 1995)

Chapter 16.48

SUPPLEMENTAL STANDARDS FOR HOME OCCUPATIONS STANDARDS

Sections:

16.48.010 Purpose.

16.48.020 Standards.

16.48.010 Purpose.

It is the intent in this chapter to allow for and to regulate the establishment of a home occupation located in a residential ~~neighborhood zone~~. It is also the intent in this section to regulate the operation of a home occupation so that ~~residential neighbors will not be adversely impacted~~ resulting from the home occupation activities will be made less obtrusive on neighboring residential permitted uses by its existence. (Ord. 630 § 2 [16.10.010(4)(a)], 1995)

16.48.020 Standards.

A home occupation is allowable as ~~an accessory conditional~~ use in a ~~bona fide principal~~ dwelling unit or accessory building in any residential ~~area zone~~. All provisions of ~~this the Zoning Code~~ pertaining to residential uses shall be met. In addition, all of the following standards shall apply.

- A. ~~No~~ outdoor display or storage of materials, goods, supplies, or equipment related to home occupation shall be ~~allowed~~ prohibited.
- B. There shall be no changes to the exterior of the principal building or accessory building nor any visible evidence that the ~~residence principal building or accessory building~~ also contains a home occupation.
- C. A home ~~office use~~ occupation shall not generate nuisances such as on-street parking, noise, electrical interference, or hazards.
- D. There shall be no ~~more than one~~ persons outside of the immediate household residing in the subject dwelling unit employed in the home occupation.
- E. No more than one client of the home occupation business may visit the dwelling unit at any given time, and an off-street parking space must be provided for that client.
- E. The maximum area devoted to a home occupation shall be no greater than 25 percent of the gross floor area of the principal dwelling unit. (Ord. 630 § 2[16.10.010(4)(b)], 1995)

Chapter 16.52

MANUFACTURED/~~MOBILE~~ HOUSING

Sections:

16.52.010 Purpose.

16.52.020 Classifications of manufactured housing.

~~16.52.030 Classifications of manufactured home developments.~~

16.52.0340 Standards for manufactured housing.

~~16.52.050 Standards for Type A manufactured homes.~~

~~16.52.060 Standards for Type B manufactured homes.~~

~~16.52.070 Standards for manufactured home developments.~~

16.52.010 Purpose.

It is the purpose of this chapter to allow for and to regulate the use of manufactured housing in the City of Sultan. Manufactured housing is important in the provision of low-cost and moderate-cost housing. Therefore, standards in this section are provided both to recognize the valid place of manufactured housing and to set forth necessary criteria on location and use of such housing. (Ord. 630 § 2[16.10.010(5)(a)], 1995)

16.52.020 Classifications of manufactured housing.

Manufactured homes are classified as follows for purposes of these standards.

A. A manufactured housing unit is a single-family ~~residence dwelling unit~~, transportable in one or more sections, which is designed to be used with or without a permanent foundation when connected to the required utilities. After June 15, 1976, manufactured homes must be constructed in accordance with U.S. Department of Housing and Urban Development (HUD) requirements for manufactured housing, and bear the appropriate insignia indicating such compliance.

B. ~~Type A.~~ New manufactured ~~homes-housing~~ certified as meeting U.S. Department of Housing and Urban Development (HUD) Manufactured Home Construction and Safety Standards, or used manufactured ~~homes-housing~~ certified as meeting the HUD standards specified above and found on inspection to be in excellent condition and safe and fit for residential occupancy are single-family dwelling permitted uses.

~~C. Type B. Used manufactured or mobile homes, whether or not certified as meeting HUD prior codes, found on inspection to be in excellent, good, or fair condition, as defined by the HUD Manufactured Home Construction and Safety Standards.~~ (Ord. 630 § 2[16.10.010(5)(b)], 1995)

~~16.52.030 Classifications of manufactured home developments.~~ SHARE

~~A. A manufactured home park is a parcel of land at least five acres in size under single ownership on which five or more mobile homes are occupied as residences. This does not include the use of mobile homes as allowable accessory uses.~~

~~B. A manufactured home subdivision is designed and/or intended for the sale of lots for residential occupancy by mobile homes. (Ord. 630 § 2 [16.10.010(5)(c)], 1995)~~

~~16.52.0340 Standards for manufactured housing.~~ SHARE

~~Manufactured housing, other than those as classified in SMC [16.52.020](#), is an allowable a single-family dwelling unit type and a permitted use in those zoning districts in which appropriate residential land uses single-family dwellings are permitted. Such housing is subject to the building code and all standards in this the Zoning Code that apply to residential land uses, including the subdivision regulations contained in this code SMC Title 19. (Ord. 630 § 2[16.10.010(5) (d)], 1995)~~

~~16.52.050 Standards for Type A manufactured homes.~~ SHARE

~~Type A manufactured homes are allowed in any manufactured home development type as defined in SMC [16.52.030](#) above or on their own individual lots. However, any manufactured homes proposed to be located on their own individual lots in the LMD zone shall be limited to no more than two such units for every 1,000 linear feet of roadway. This requirement shall apply to both sides of the roadway. It shall not apply to manufactured home developments. (See SMC [16.52.070](#) for manufactured home development standards.) (Ord. 630 § 2 [16.10.010(5)(e)], 1995)~~

~~16.52.060 Standards for Type B manufactured homes.~~ SHARE

~~Type B manufactured or mobile homes are allowed only in a manufactured home development. A Type B manufactured or mobile home to be moved to a new location must meet the following standards:~~

~~A. An application for approval to relocate shall be obtained.~~

~~B. Upon inspection, the Type B manufactured or mobile home shall be found to be in excellent or good condition prior to the move. Criteria for determining condition shall be the same as those applied to housing inspections. After moving or relocation of the Type B manufactured or mobile home, a second inspection shall be required to verify that the manufactured or mobile home remains in no less than good condition. An occupancy permit shall not be issued until such conditions are met. (Ord. 630 § 2[16.10.010(5)(f)], 1995)~~

~~16.52.070 Standards for manufactured home developments.~~ SHARE

~~A manufactured home development shall be allowed where all applicable standards of this unified development code are met for a residential land use. In addition, the following standards shall apply:~~

~~A. A manufactured home development is allowed in those zoning districts in which residential land uses are permitted. However, in no case shall manufactured home developments be allowed in the HD, UC, or ED zoning districts. A manufactured home development shall not exceed the densities established for single-family detached residential uses within the district proposed for the development.~~

~~B. The following are site design standards for a manufactured home park:~~

~~1. The minimum land area shall be five acres.~~

~~2. Every manufactured home shall be located at least eight feet from any internal abutting street.~~

~~3. The minimum distance between a manufactured home (including allowable accessory buildings) and an adjacent manufactured home (including accessory buildings) shall be 15 feet. This distance shall be measured at the narrowest space between structures, whether they be the living units or accessory buildings (e.g., carport, storage building).~~

~~4. All standards contained in the subdivision regulations contained in this code with regard to utilities, streets, and sidewalks shall apply to the design and development of a manufactured home park.~~

~~C. Manufactured home developments (parks) are applied for, reviewed and approved or denied through procedures in Chapters 19.18 and 19.20 SMC. (Ord. 1145-12 § 7; Ord. 630-5-2[16.10.010(5)(g)], 1995)~~

Chapter 16.56

NONRESIDENTIAL PERFORMANCE STANDARDS

Sections:

[16.56.010 Application.](#)

[16.56.020 Categories of use.](#)

[16.56.030 Performance standards.](#)

[16.56.040 Supplemental standards for drive-through facilities.](#)

[16.56.050 Supplemental standards for mixed-use or split-use development.](#)

[16.56.060 Supplemental standards for recreational vehicle parks.](#)

[16.56.070 Supplemental standards for mobile home parks.](#)

[16.56.0870 Medical marijuana \(cannabis\) collective gardens and dispensaries prohibited.](#)

16.56.010 Application. 

This chapter contains performance standards that apply to nonresidential uses. Nonresidential land uses regulated in this section include commercial, tourism, office, light and heavy industry, and certain public/semi-public uses. These standards regulate building development and are applied over and above those standards imposed by other sections of ~~this unified development code~~ [the Zoning Code](#). These supplemental standards are necessary for those land uses having characteristics that may have negative impacts without the additional regulations. (Ord. 630 § 2 [16.10.020], 1995)

16.56.020 Categories of use. 

The following categories of land use shall be subject to the standards contained in this section.

A. Public/semi-public: institutional ~~uses~~ and public services ~~uses only~~ [facilities](#).

B. Offices ~~uses~~.

C. Commercial uses: general commercial [enterprises](#), commercial recreational [facilities](#), automobile-oriented commercial [enterprises](#) (gas stations, auto repair shops, tire shops, etc.), home building supply ~~outlets~~ [stores](#), plant and landscape nurseries, and shopping centers.

D. Industrial uses: ~~industrial~~ [manufacturing](#), wholesaling, warehousing, ~~and~~ [distribution](#), ~~and other industrial activities~~ [facilities](#).

E. Tourist facilities: hotels, ~~bed and breakfast inns~~ [motels](#), [lodging houses](#), and [recreation and entertainment](#) ~~activities~~ [facilities](#). (Ord. 630 § 2 [16.10.020(1)], 1995)

16.56.030 Performance standards. 

The development of a nonresidential use shall be allowed only in full compliance with the standards of this and other relevant sections of ~~this the Zoning Code~~.

A. Subdivision of Land. Any land proposed to be subdivided for the purposes of nonresidential activity shall adhere to all of the requirements for the subdividing of land in the city contained in SMC Title [19](#).

B. Building Placement.

1. There is no minimum required distance between adjacent buildings on the same lot; provided, that when a building exceeds two stories in height, the minimum distance from an adjacent building or property line shall be increased by two feet for each story above two.

2. Certain nonresidential development in the UC zoning district may build up to the right-of-way line of the abutting roadway. These are enumerated in the table of dimensional and density requirements for the UC zoning district contained within ~~this the Zoning Code~~. However, buildings, signs, or other structures shall not be placed in the ~~sight-clear vision~~ triangle specified in the landscape performance standards [in SMC Title 17](#).

~~3. Where any lot in the LMD, MD, or HD zoning districts is proposed for nonresidential development, a landscaped buffer shall be required along the property line boundary. If, however, a nonresidential development is proposed to be built in these zoning districts immediately adjacent to an existing nonresidential use, no landscaped buffer will be required along the common property line of the existing and proposed nonresidential development. The buffer shall be no less than 15 feet wide and consist of a least three rows of plantings that shall be installed in a staggered manner 10 feet on center. The plant species selected shall attain a height of at least six feet at maturity.~~

~~34. Access driveways to any commercial development on an individual parcel in the LMD, MD, HD, and HOD zoning districts shall be at least 75 feet apart from each other, measured from centerline to centerline. However, where driveways are each one-way and each being no more than 12 feet wide, the two driveways shall be counted as a single unit of access for the purposes of this the Zoning Code.~~

~~C. In no case shall any commercial development be permitted on minor streets in the LMD and MD zoning districts. In these zoning districts, commercial development shall only be allowed on collector or arterial roadways, as defined by the adopted city of Sultan comprehensive plan. (Ord. 1145-12 § 8; Ord. 630 § 2[16.10.020(2)], 1995)~~

16.56.040 Supplemental standards for drive-through facilities. 

A. Purpose. Supplemental standards are provided for uses with drive-through facilities to ensure protection from potential traffic hazards. These standards are to be applied in addition to all other applicable standards of ~~this the Zoning Code~~.

B. Standards.

1. Driveways proposed to service commercial development shall be separated 75 feet or more between properties. Where driveways are each one-way and each no more than 12 feet wide, the two driveways shall be counted as a single unit. When, because of existing development, it is mathematically impossible to achieve this requirement for a proposed commercial project, the applicant shall attempt to secure an access easement from an adjoining commercial development. If this is impossible to secure (as evidenced by a written denial by both adjoining property owners of the request), the building and zoning official may permit a waiver of this requirement. However, in doing so, any new access driveway shall be located as far as possible from all existing access drives.

2. Approach lanes for the drive-through facilities shall have the following minimum widths: one lane – 12 feet; two or more lanes – 10 feet per lane.

3. Minimum linear distance for stacking of automobiles in the drive-through window lanes (measured from the commercial window at the building location):

a. One drive-through window = 10 feet;

b. Two drive-through windows = 10 feet;

c. Three drive-through windows = 95 feet;

d. Four drive-through windows = 80 feet;

e. Five drive-through windows = 65 feet.

4. The minimum distance from the proposed drive-through facility to the right-of-way shall be 65 feet, where no turns are required. This distance shall be measured from the drive-through station farthest from the main building. Where turns are required in the exit lane, the minimum distance from any drive-through window to the beginning point of the turn shall be 34 feet. The minimum turning radius shall be 17 feet.

5. The minimum distance from a drive-through facility to any residential building shall be 25 feet. This distance shall be measured at the narrowest point between the main building, an off-street parking area, or vehicle lanes, whichever is closer.

6. Alleys or driveways in residential areas adjacent to drive-through facilities shall not be used for circulation of customer traffic. (Ord. 630 § 2[16.10.020(3)], 1995)

16.56.050 Supplemental standards for mixed-use ~~or split-use~~ development. 

A. When a parcel of land is proposed to accommodate a building that contains two or more uses in the ~~LMD, MD, HD, UC~~ or HOD zoning districts it shall not be necessary ~~that for~~ the minimum land area requirements for each use to be met.

B. However, where a building containing two or more uses is proposed to be built, the following conditions must be met:

1. Every use or activity proposed to be included ~~is allowed~~ shall be a permitted use in the zoning district where the building is proposed to be built;

2. The minimum lot area, dimensional and density requirements (setbacks, lot coverage, etc.) for the most restrictive use proposed in the building must be met;

3. To compute the number of off-street parking spaces required for such a development, it will be necessary to calculate the requirements for each use and total them (unless it is demonstrated that certain proposed future uses shall not utilize the parking area at the same times, i.e., schools and churches); and

4. If off-street loading and unloading space(s) is required for any use, it must be provided. (Ord. 630 § 2[16.10.020(4)], 1995)

16.56.060 Supplemental standards for recreational vehicle parks. 

A. The maximum permitted gross density for any recreational vehicle park shall be 20 units per acre.

B. Space allocations for recreational vehicles shall be on a basis of 1,000 square feet per vehicle, the minimum dimensions of which shall be 32 feet wide by 30 feet long.

C. The space shall abut on a driveway not less than 20 feet in width, which shall have unobstructed access to a public street or highway.

D. Recreation vehicles shall be parked on each space so that there will be at least 12 feet of clearance between RVs, six feet between RVs and any adjoining property lines, and 12 feet between RVs and any building or structure.

E. Each recreation vehicle strip shall include a strip of ground 10 feet wide along one side for automobile parking purposes.

F. All recreation vehicle park roads must be surfaced, at least with rock and gravel.

G. No less than 15 percent of the total site shall be defined recreational space. Said space shall be readily accessible to all patrons and shall be maintained in such a manner as to present a neat and clean appearance.

H. No rental of any recreational vehicle space shall be for a period to exceed two weeks.

I. Every recreational vehicle space shall meet health department minimum requirements with regard to provisions for potable water and sanitary sewage facilities.

J. Any recreational vehicle park may provide an office, convenience commercial store, and on-site residence for the manager of the operation. However, in no case shall the land area for these facilities exceed a total of 10,000 square feet. (Ord. 630 § 2[16.10.020(5)], 1995)

16.52.060 Standards for Type B manufactured homes. 

Type B manufactured or

16.562.070 ~~Supplemental s~~Standards for mobile home developments parks. 

A manufactured home ~~development park~~ shall be allowed where all applicable standards of ~~this unified development code are met for a residential land use; the Zoning Code are met~~. Mobile homes are allowed only in a mobile home park. For a mobile home to be located in a mobile home park the following steps must be taken:

A. An application for approval to locate or relocate a mobile home shall be obtained from the City of Sultan.

B. Upon inspection by the building inspector, the ~~Type B manufactured or~~ mobile home shall be found to be in excellent or good condition prior to the move. Criteria for determining condition shall be the same as those applied to housing inspections. After moving or relocation of the ~~Type B manufactured or~~ mobile home, a second inspection shall be required to verify that the ~~manufactured or~~ mobile home remains in no less than good condition. An occupancy permit shall not be issued until such conditions are met. (Ord. 630 § 2[16.10.010(5)(f)], 1995)

C. In addition, the following site design standards for mobile parks shall apply:

~~B. The following are site design standards for a manufactured home park:~~

1. The minimum land area shall be five acres.

2. Every ~~manufactured mobile~~ home shall be located at least eight feet from any internal abutting street.

3. The minimum distance between a ~~manufactured mobile~~ home (including allowable accessory buildings) and an adjacent ~~manufactured mobile~~ home (including accessory buildings) shall be 15 feet. This distance shall be measured at the narrowest space between structures, whether they be the living units or accessory buildings (e.g., carport, storage building).

4. All standards contained in the subdivision regulations ~~(SMC Title 19) contained in this code~~ with regard to utilities, streets, and sidewalks shall apply to the design and development of a ~~manufactured mobile~~ home park.

C. ~~Manufactured Mobile~~ home ~~developments (parks)~~ are applied for, reviewed and approved or denied through procedures in Chapters 19.18 and 19.20 SMC. (Ord. 1145-12 § 7; Ord. 630 § 2[16.10.010(5)(g)], 1995)

16.56.0870 Medical marijuana (cannabis) collective gardens, ~~and dispensary~~ ies establishments, and other retail business stores prohibited. 

A. Definitions. As used in this section, the following terms shall have the meanings set forth below:

1. “Medical marijuana collective garden” or “collective garden” means a group of qualifying patients that share responsibility for acquiring and supplying the resources required to produce and process marijuana for medical use. Examples of collective garden resources include, without limitation, the following: property used for a collective garden; or equipment, supplies, and labor necessary to plant, grow and harvest marijuana; marijuana plants, seeds, and cuttings; and equipment, supplies, and labor necessary for proper construction, plumbing, wiring, and ventilation of a garden of marijuana plants. A medical marijuana collective garden shall satisfy the above definition regardless of its formation, ownership, management, or operation as a business, agency, organization, cooperative, network, consultation operation, group, or person. One individual person who is the designated provider for only one qualified patient, as those terms are defined in RCW [69.51A.010](#), during any 15-day period and who complies with Chapter [69.51A](#) RCW, or an individual person who is a qualified patient and who complies with Chapter [69.51A](#) RCW, shall not be deemed a medical marijuana collective garden for the purposes of this section.

2. “Medical marijuana dispensary” means any business, agency, organization, cooperative, network, consultation operation, or other group, or person, no matter how described or defined, including its associated premises and equipment, which has for its purpose or which is used to grow, select, measure, package, label, deliver, sell, or otherwise transfer (for consideration or otherwise) marijuana for medical use. One individual person who is the designated provider for only one qualified patient, as those terms are defined in RCW [69.51A.010](#), during any 15-day period and who complies with Chapter [69.51A](#) RCW shall not be deemed a medical marijuana dispensary for the purposes of this section.

3. “Marijuana retail business store” means any business or retail establishment which has for its purpose or which is used to grow, select, measure, package, label, deliver, sell, or otherwise transfer (for consideration or otherwise) marijuana for personal use.

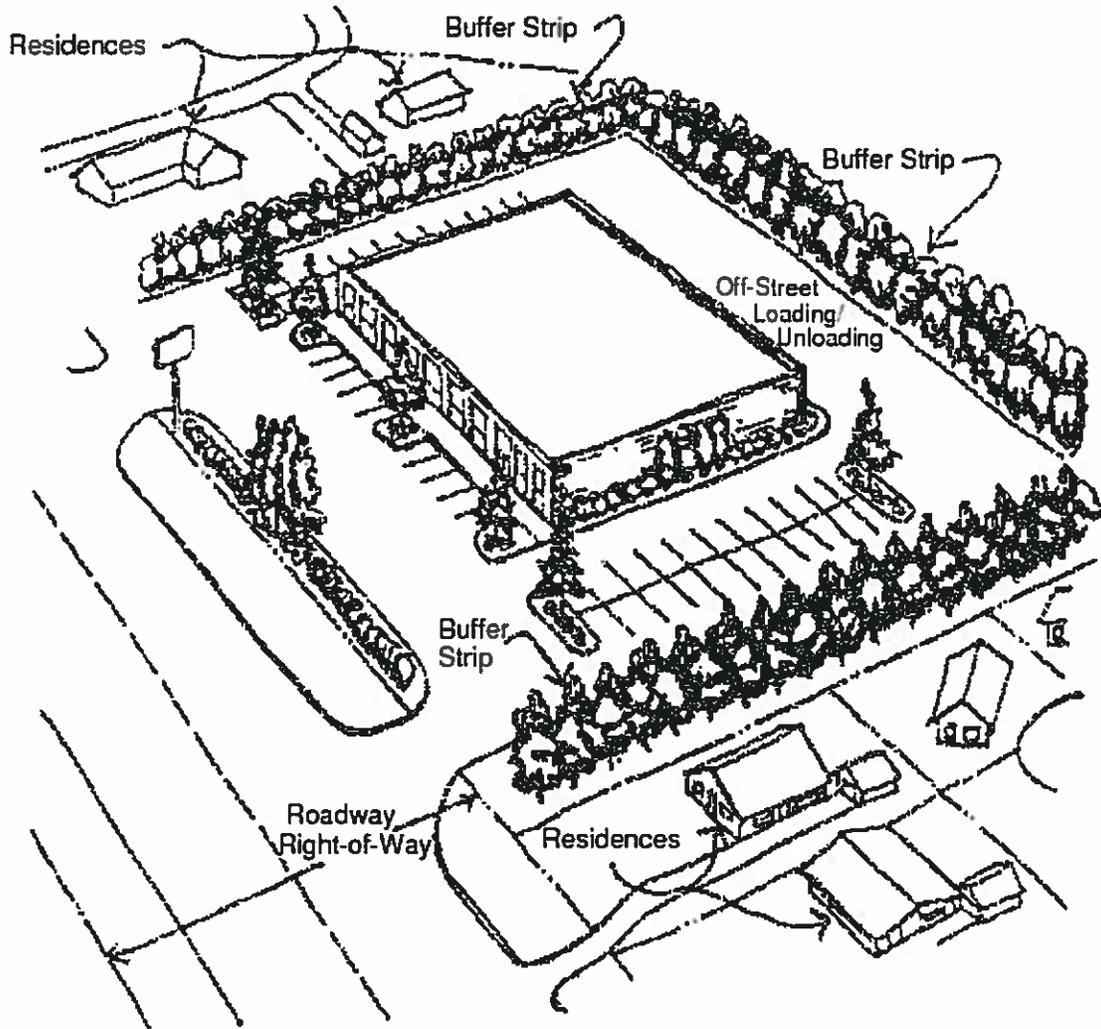
AG. Medical Marijuana Collective Gardens Prohibited. Collective gardens are prohibited within the city of Sultan and shall not be located in any zone or on any property in the city of Sultan.

B. Medical Marijuana Dispensary ~~ies~~ Establishments Prohibited. Medical marijuana dispensary ~~ies~~ establishments are prohibited within the city of Sultan and shall not be located in any zone or on any property in the city of Sultan.

C. Marijuana Retail Business Stores Prohibited. Marijuana retail business stores are prohibited within the City of Sultan and shall not be located in any zone or on any property in the City of Sultan.

D. Enforcement. Enforcement of prohibitions, restrictions, and limitations on retail business stores, collective gardens, and other dispensary establishments will be pursued as provided by all applicable state and local laws. (Ord. 1182-13 § 1)

Example of How Commercial Development is to be Accommodated in Residential Areas



Home < >

The Sultan Municipal Code is current through Ordinance 1216, passed May 14, 2015.

Chapter 16.58

MARIJUANA BUSINESSES STANDARDS

Sections:

[16.58.010 Purpose and intent.](#)

[16.58.020 Definitions.](#)

[16.58.030 Medical marijuana dispensaries prohibited.](#)

[16.58.035 Collective gardens prohibited.](#)

[16.58.040 Marijuana retail business prohibited.](#)

[16.58.050 Locations.](#)

[16.58.060 Specific regulations.](#)

[16.58.070 No city liability – Indemnification.](#)

[16.58.080 Enforcement of violations.](#)

16.58.010 Purpose and intent. 

The purpose of this chapter is to establish zoning regulations that provide for marijuana businesses allowed under a voter-approved statewide initiative (Initiative 502), now codified in RCW Title [69](#), and subject to requirements of Chapter [314-55](#) WAC. (Ord. 1190-14 § 1)

16.58.020 Definitions. 

The following definitions apply to this chapter. Additional definitions related to marijuana businesses are contained in WAC [314-55-010](#) and RCW [69.50.101](#).

- A. “Business name” or “trade name” means the name of a licensed business as used by the licensee on signs and advertising.
- B. “Child care center” means an entity that regularly provides child day care and early learning services for a group of children for periods of less than 24 hours and is licensed by the Washington State Department of Early Learning under Chapter [170-295](#) WAC.
- C. “Game arcade” means an entertainment venue featuring primarily video games, simulators, and/or other amusement devices where persons under 21 years of age are not restricted.
- D. “Library” means an organized collection of resources made accessible to the public for reference or borrowing supported with money derived from taxation.

E. "Marijuana" means all parts of the plant Cannabis, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, or any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

F. "Marijuana business" means any business that handles marijuana and is subject to Chapter 314-55 WAC.

G. "Marijuana processing business" means any business that is licensed by the State Liquor Control Board to process, package, and label usable marijuana and marijuana-infused products for sale to wholesale marijuana retailers.

H. "Marijuana production business" means any business that is licensed by the State Liquor Control Board to produce marijuana for sale at wholesale to marijuana processor licensees and to other marijuana producer licensees.

I. "Marijuana retail business" means an establishment engaged in selling marijuana, marijuana-infused products, and marijuana paraphernalia to people for their personal or household use. It does not include businesses that produce or process marijuana and do not sell it directly for personal or household use.

J. "Medical marijuana collective garden" means a group of qualifying patients that share responsibility for acquiring and supplying the resources required to produce and process marijuana for medical use. Examples of collective garden resources would include, without limitation, the following: property used for a collective garden; or equipment, supplies, and labor necessary to plant, grow and harvest marijuana; marijuana plants, seeds, and cuttings; and equipment, supplies, and labor necessary for proper construction, plumbing, wiring, and ventilation of a garden of marijuana plants.

K. "Medical marijuana dispensary" means any business, agency, organization, cooperative, network, consultation operation, or other group, or person, no matter how described or defined, including its associated premises and equipment, which has for its purpose or which is used to grow, select, measure, package, label, deliver, sell, or otherwise transfer (for consideration or otherwise) marijuana for medical use.

L. "Playground" means a public outdoor recreation area for children, usually equipped with swings, slides, or other playground equipment, owned and/or managed by a city, county, state, or federal government.

M. "Public park" means an area of land for the enjoyment of the public, having facilities for rest and/or recreation, such as a baseball diamond or basketball court, owned and/or managed by a city, county, state, or federal government, and does not include trails.

N. "Public transit center" means a facility located outside of the public right-of-way that is owned and managed by a transit agency or city, county, state, or federal government for the express purpose of staging people and vehicles where several bus or other transit routes converge.

O. "Recreation center or facility" means a supervised center that provides a broad range of activities and events intended primarily for use by persons under 21 years of age, owned and/or managed by a charitable nonprofit organization, city, county, state, or federal government.

P. "Residence" means a building, dwelling unit or property where one or more persons may live or maintain an abode.

Q. "School, elementary" means a school for early education that provides the first four to eight years of basic education and is recognized by the Washington State Superintendent of Public Instruction.

R. "School, secondary" means a high school and/or middle school, i.e., a school that is recognized by the Washington State Superintendent of Public Instruction for the education of students, typically children, in grades seven to 12. (Ord. 1190-14 § 1)

16.58.030 Medical marijuana dispensaries prohibited.

Medical marijuana dispensaries, as defined in SMC [16.58.020](#), are prohibited. Medical marijuana dispensaries shall not be located in any zone or on any property in the city of Sultan. (Ord. 1190-14 § 1)

16.58.035 Collective gardens prohibited.

Medical marijuana collective gardens, as defined in SMC [16.58.020](#), are prohibited. Medical marijuana collective gardens shall not be located in any zone or on any property in the city of Sultan. (Ord. 1190-14 § 1)

16.58.040 Marijuana retail business prohibited.

Marijuana retail businesses, as defined in SMC [16.58.020](#), are prohibited. Marijuana retail businesses shall not be located in any zone or on any property in the city of Sultan. (Ord. 1190-14 § 1)

16.58.050 Locations.

A. A marijuana business shall not be located within 1,000 feet of the perimeter of the grounds of any of the following entities as defined in SMC [16.58.020](#) and WAC [314-55-010](#):

1. Elementary or secondary school;
2. Playground;
3. Recreation center or facility;
4. Child care center;

5. Park;

6. Transit center;

7. Library; or

8. Game arcade where admission is not restricted to persons age 21 and older.

B. For purposes of subsection (A) of this section, the distance shall be measured as the shortest straight line distance from the property line of each entity identified in subsection (A) of this section to the property line of the marijuana business.

C. Marijuana production businesses and marijuana processing businesses are allowed only in the following areas:

1. The economic development zone (SMC [16.12.060](#)) subject to the location limitations of subsections (A) and (B) of this section.

D. Marijuana businesses are not permitted as a home occupation under Chapter [16.48](#) SMC and shall not operate at a residence as defined in this chapter.

E. The owner and/or operator of a marijuana business is responsible for documentation that the proposed location meets the requirements of WAC [314-55-050](#), and this section.

F. Any site, building, or location upon which a marijuana business has been located without completing all of the requirements of this code is not authorized or legal. No claim of validity as a nonconforming use or other claim of vested property right for such use will be honored. (Ord. 1190-14 § 1)

16.58.060 Specific regulations. 

A. To operate within the city, each marijuana business is required to have a current business license issued by Washington State under the provisions of Chapter [314-55](#) WAC and a current business license issued by the city under the provisions of Chapter [5.04](#) SMC.

B. Marijuana businesses are subject to the signage requirements of WAC [314-55-155](#) and Chapter [22.06](#) SMC, whichever is more restrictive. No off-premises signage is allowed.

C. A marijuana business must take place within a fully enclosed secure indoor facility or greenhouse with rigid walls, a roof, and doors.

D. Marijuana plants, products, and paraphernalia shall not be visible from outside the building in which the marijuana business is.

E. Marijuana growing and processing businesses shall not allow odors to migrate beyond the interior of the structure where said growing and/or processing is conducted.

F. Marijuana businesses are subject to all applicable requirements of the Sultan Municipal Code including but not limited to the building codes (Chapter [15.01](#) and [15.06](#) SMC), the fire code (Chapter [15.01](#) SMC), and environmental regulations (SMC Title [17](#)) as now exist or may be amended.

G. Marijuana businesses are subject to all applicable requirements of RCW Title [69](#) and Chapter [314-55](#) WAC and other state statutes, as they now exist or may be amended.

H. Nothing in this code is intended or should be considered as a limitation on the city from protesting the granting of a permit or the renewal of a permit. (Ord. 1190-14 § 1)

16.58.070 No city liability – Indemnification. 

A. By accepting a permit issued pursuant to this chapter, the licensee waives and releases the city, its officers, elected officials, employees, volunteers and agents from any liability for injuries, damages, or liabilities of any kind that result from any arrest or prosecution of business owners, operators, employees, clients or customers for a violation of federal, state or local laws and regulations.

B. By accepting a permit issued pursuant to this chapter, all licensees, jointly and severally, if more than one, agree to indemnify, defend and hold harmless the city, its officers, elected officials, employees, volunteers and agents, insurers and self-insurance pool against all liability, claims and demands on account of any injury, loss or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever arising out of or in any manner connected with the operation of the recreational marijuana business that is the subject of the license. (Ord. 1190-14 § 1)

16.58.080 Enforcement of violations. 

Violations of this chapter shall be subject to enforcement action as provided in Chapters [8.04](#) and [16.132](#) SMC, or, as applicable, the Uniform Controlled Substances Act, RCW Title [69](#). In addition, violations of this chapter are deemed to be a public nuisance and may be abated under the procedures set forth in state law for the abatement of public nuisances. (Ord. 1190-14 § 1)

Chapter 16.60
OFF-STREET PARKING AND
LOADING STANDARDS

Sections:

[16.60.010 Purpose and intent.](#)

[16.60.020 General requirements.](#)

[16.60.030 Timing of the provision of required off-street parking and off-street loading spaces.](#)

[16.60.040 Requirement to retain off-street parking and loading space.](#)

[16.60.050 Permitted reductions in off-street parking requirements.](#)

[16.60.060 Location of off-street parking and loading areas.](#)

[16.60.070 Limitations on vehicular storage.](#)

[16.60.080 Determination of seating capacity at places of assembly.](#)

[16.60.090 Collective off-street parking provisions.](#)

[16.60.100 Joint-use parking requirements.](#)

[16.60.110 Requirements for retail trade, personal service, and business service establishments and offices, hotels, night clubs, and health clubs in the UC zoning district.](#)

[16.60.120 Development and maintenance of off-street parking areas.](#)

[16.60.130 Plan requirement.](#)

[16.60.140 Minimum required off-street parking spaces.](#)

[16.60.150 Off-street loading space requirements.](#)

16.60.010 Purpose and intent. 

Off-street parking areas are required for all new uses of land so that all uses will have adequate parking for the occupants, employees, visitors, customers, and/or patrons and they will not have to rely on the public rights-of-way for this function.

Off-street loading areas are required for all uses (except residential) to provide adequate space off of the city's rights-of-way for the temporary parking of motor vehicles (primarily trucks) while loading or unloading. (Ord. 630 § 2[16.10.030(1)], 1995)

16.60.020 General requirements. 

No building or structure in any district shall be erected or enlarged, nor shall any building, structure or land be used, designed or arranged for any purpose without provisions for such off-street parking and/or loading facilities as required by this code, nor shall any off-street parking or loading area, whether required by this code or voluntarily provided, be developed other than in the manner set forth herein. Seasonal parking facilities are exempt from the requirements of this chapter and need not be developed in the manner set forth herein.

For the purpose of these standards, 153 square feet of area shall be deemed a parking space for one vehicle. The minimum dimensions for each parking space shall be eight and one-half feet wide by 18 feet long. The maximum permitted dimensions for each parking space (except for designated handicapped spaces) shall be 10 feet wide by 20 feet long. On corner or through lots, (A) parking space may not be included within the area of any of required yards lying adjacent to either street, and (B) in no case shall any required off-street parking space be allowed to back out directly onto any arterial right-of-way (a residential garage or carport space shall be considered an off-street parking space).

The access aisles within any off-street parking area shall be a maximum of 24 feet wide. The primary internal circulation system of an off-street parking lot, where no parking spaces are provided directly off this internal roadway, shall have a maximum width of 30 feet.

All parking spaces and access driveways shall be paved or otherwise surfaced with an all-weather surface, and shall be graded and drained so as to dispose of surface water that might accumulate within or upon such area. No surface water from any parking area shall be permitted to drain onto adjoining property.

Required loading spaces shall not be construed as supplying off-street parking space. In case of a use not specifically mentioned, the requirements for off-street parking facilities for a use that is mentioned, and to which said unmentioned use is similar, shall apply (this determination shall be made by the building and zoning official). (Ord. 765-01 § 10; Ord. 630 § 2 [16.10.030(2)], 1995)

16.60.030 Timing of the provision of required off-street parking and off-street loading spaces.

 SHARE

Off-street parking and loading spaces shall be provided at the time any use of land is established; or at the time that an occupancy permit is requested at the completion of construction of any building or structure; or at the time any building, structure, or land is altered or enlarged in any manner to increase the amount off-street parking or loading spaces as required by this code. However, when the use of any building or land existing at the time of adoption of this code is changed to a use in which the parking requirements are calculated differently from the method of calculation for the former use, only such additional parking as may result by reason of the different calculation need be provided for the changed use. (Ord. 630 § 2[16.10.030(3)], 1995)

16.60.040 Requirement to retain off-street parking and loading space.

 SHARE

The requirements for off-street parking and loading shall be a continuing obligation of the owner or his assignee of the real estate on which any use is located as long as the use continues, and is a use that requires off-street parking or loading. It shall be unlawful for an owner of any building or land use activity affected by the off-street parking and loading requirements to discontinue, change, reduce or dispense with, or cause the discontinuance, change, or reduction of the required off-street parking or loading space. It shall be unlawful for any individual, firm, or corporation to use such building or land without acquiring such area as is required and permitted to fulfill the off-street parking and loading requirements. Whenever off-street parking is required and cannot be provided on the same lot as the principal building, and is located on another parcel or property provided for and utilized for off-street parking, said parcel of property shall be owned by the owner of the principal building or, in the alternative, shall be restricted by a recorded agreement to off-street parking purposes during, or as long as off-street parking is required for such principal building, in accordance with the terms of this code. (Ord. 630 § 2[16.10.030(4)], 1995)

16.60.050 Permitted reductions in off-street parking requirements. [SHARE](#)

Off-street parking space required under these standards may be reduced at the time the capacity or use of a building is changed in such a manner that the new use or capacity would require less space than before the change. Such reduction may not be below the requirements set forth in these standards. (Ord. 630 § 2[16.10.030(5)], 1995)

16.60.060 Location of off-street parking and loading areas. [SHARE](#)

The required off-street parking and loading areas shall be located on the same lot or parcel of land they are intended to serve. However, if the required off-street parking spaces cannot be provided, in whole or in part, on the same lot on which the principal building is located, such required off-street parking may be located on another lot or parcel of land within 1,000 feet of the premises to be served, provided:

A. The owner of such parking area enters into a written agreement with the city of Sultan providing that the land comprising the parking area shall never be disposed of, nor the use changed, except in conjunction with the sale of the building that the parking area serves, so long as the facility is required; and

B. The owner agrees to bear the expense of recording the agreement and agrees that said agreement shall bind his heirs, successors, and assigns. (Ord. 630 § 2[16.10.030(6)], 1995)

16.60.070 Limitations on vehicular storage. [SHARE](#)

Except as otherwise provided in this chapter, off-street parking spaces required herein may be occupied by the occupants, employees, or patrons of the property or by visitors, or by delivery vehicles incidental to the principal use, but not by vehicles being repaired, stored or displayed for sale or hire. (Ord. 630 § 2[16.10.030(7)], 1995)

16.60.080 Determination of seating capacity at places of assembly. [SHARE](#)

In stadiums, sport arenas, houses of worship and other places of assembly in which patrons or spectators occupy benches, pews or other similar seating facilities, each 20 inches of such seating facilities shall be counted as one seat for the purpose of determining requirements for off-street parking facilities. (Ord. 630 § 2[16.10.030(8)], 1995)

16.60.090 Collective off-street parking provisions. 

Nothing in these standards shall be construed to prevent the collective provision of off-street parking facilities for two or more structures or uses; provided, that the total of such off-street parking spaces supplied collectively shall not be less than the sum of the requirements for the various uses computed separately; provided also, that the requirements set forth hereinbefore as to maximum distances between parking facilities and principal structures or uses served shall apply to each structure or use participating in the collective provisions for parking. (Ord. 630 § 2[16.10.030(9)], 1995)

16.60.100 Joint-use parking requirements. 

A. Places of Public Assembly. Parking spaces already provided to meet off-street parking requirements of stores, office buildings, schools, and industrial establishments, situated on the same site as places of public assembly, and that are not normally in use between the hours of 6:00 p.m. and midnight and are made available for other parking, may be used to meet not more than 50 percent of the total requirements of parking spaces. Written agreement is required for such joint-use parking arrangements between the officials of the place of public assembly and the owner or manager of the other development and parking area on the site.

B. Mixed-Use Developments. In the case of mixed uses (such as shopping centers), the total requirements for off-street parking facilities shall be the sum of the requirements for the various uses computed separately. Off-street parking facilities for one use shall not be considered as providing required parking facilities for any other use, except as specified above for joint use. (Ord. 630 § 2 [16.10.030(10)], 1995)

C. Shared Parking Agreement. Parking facilities may be cooperatively used by different land uses, when the times of the use of such parking spaces by each use are not simultaneous. A shared parking agreement signed by all parties who share the parking facilities and approved by the City Community Development Director (Director) shall be required that binds the parking facilities and the parties until the agreement is dissolved by all parties and approved by the Director. The total number of required parking spaces may be reduced from the requirements of Sultan Municipal Code Chapter 16.60, if it is demonstrated through a parking study that complementary uses, internal trip capture or uses with different peak parking needs justify the reduction in required parking spaces at all times. A covenant running with the land shall be made between the property owner (owner) and the City of Sultan (City) stating the responsibilities of the owner and shall be recorded with Snohomish County. A copy with the recording number and parking layouts and scheduled times of use by the specific uses sharing the on-site parking spaces shall be submitted as part of any permit application for development. When any shared parking agreement subject to the covenant is to be modified or terminated, the owner shall be

responsible for notifying the Director and providing a revised site plan and schedule for meeting the parking requirements of all the development on the property subject to the covenant.

16.60.110 Requirements for retail trade establishments, personal service establishments, ~~and business service establishments~~, ~~and~~ offices, hotels, motels, lodging houses, guest houses, night clubs, and health ~~clubs~~ spas in the UC zoning district. 

To promote more compact urban settlements, the city of Sultan is encouraging the development of activity nodes that require less of a reliance on the private automobile. To that end, as can be seen in the tables of dimensional and density requirements for the UC zoning district, front and side yard setbacks are not required for retail trade establishments, personal service establishments, ~~and~~ ~~business service establishments~~, ~~and~~ offices, night clubs, and health ~~clubs~~ spas. In furtherance of this goal, the off-street parking requirements for these categories of uses, as well as hotels, motels, lodging houses, and ~~bed and breakfast inns~~ guesthouses, as contained in the off-street parking table contained in this chapter, are reduced by 50 percent when they are proposed to be located in the UC zoning district. (Ord. 630 § 2[16.10.030(11)], 1995)

16.60.120 Development and maintenance of off-street parking areas. 

For every parcel of land hereafter used, off-street parking shall be developed and maintained by the owner in accordance with the following requirements:

A. **Minimum Distances and Setbacks.** No part of any off-street parking area containing five or more vehicle spaces, shall be closer than 10 feet to any dwelling, school, hospital, or other institution for human care. If on the same lot with a principal structure, the parking area shall not be located within the front yard or side street yard setback area required for such structure.

B. **Bumper Guard and/or Bollard Requirements.** There shall be provided a bumper guard and/or bollard of either wood, metal or concrete not more than two feet in height and securely anchored into the ground on all sides of the parking area where there is required a protective fence or wall. Any required bumper guard and/or bollard shall be located at such distance so that automobiles will not strike the protective fence or wall. As an alternative, a concrete beam serving the same purpose may be provided.

C. **Off-Street Parking Area Surfacing Requirements.** Any off-street parking area containing more than five vehicle spaces shall be surfaced with an asphaltic, bituminous, cement, or other properly bound pavement so as to provide a durable and dustless surface, and shall be graded and drained so as to dispose of all surface water accumulation within the off-street parking area.

D. **Lighting.** Any lighting used to illuminate any off-street parking area shall be so arranged as to reflect the light away from adjoining premises used for residential purposes in any district.

E. **Entrance, Exit, and Maneuvering Space.** Vehicular drives providing entrance and exit to the street system from the off-street parking area shall have a minimum pavement width of 22 feet. This requirement shall not apply to single-family detached residences. The right turn radius on the side of the driveway exposed to entry or exit by right-turning vehicles shall be a minimum of 17 feet. Maneuvering

areas shall be sufficient to permit vehicles to enter and leave the parking lot in a forward motion except for single-family detached dwelling units.

F. Other Design Requirements.

1. Off-street parking areas for all developments shall be designed so that sanitation, emergency, and other public service vehicles can serve such developments without the necessity of backing up unreasonable distances, or making other dangerous or hazardous turning movements.

2. Circulation areas for off-street parking lots shall be designed so that vehicles can proceed safely without posing a danger to pedestrians or other vehicles, and without adversely interfering with the normal functioning of the parking lot.

3. The parking spaces shall be appropriately demarcated with painted lines or other markings.

4. Off-street parking areas shall be properly maintained in all respects. They shall be kept in good condition (free from pot holes, etc.) and parking space lines or markings shall be kept clearly visible and distinct.

5. Handicapped parking spaces shall be provided in all required off-street parking areas, at a rate of two percent of the total required parking spaces, but in no case less than one space, and adequately posted to be in conformance with all appropriate federal and state laws.

6. No speed-bumps shall be installed within 100 feet of the point of access from the off-street parking lot to the street. (Ord. 630 § 2 [16.10.030(12)], 1995)

16.60.130 Plan requirement. 

A plan shall be submitted to the building and zoning official with every development permit application for any building or use that is required to provide off-street parking and loading. The plan shall accurately depict the required number and location of parking space, other spaces in excess of the requirements, access aisles, driveways, vehicle turn-around or backup areas, areas designated for trash collection, off-street loading spaces (if required), the distance of the off-street parking facilities to the structure or uses they are intended to serve, as well as the relationship of the parking lot to the street system into which the motor vehicles utilizing the parking areas will discharge. (Ord. 630 § 2[16.10.030(13)], 1995)

16.60.140 Minimum required off-street parking spaces. 

The minimum number of required off-street parking spaces shall be determined from the following table, except for the provisions enumerated in SMC 16.60.110. Requirements for any use not specifically mentioned shall be the same as the use most similar to the one sought. When units of measurement determining the required off-street parking spaces result in a fractional space, then such fraction equal to or greater than one-half shall be interpreted as one off-street parking space.

TABLE OF OFF-STREET PARKING REQUIREMENTS

Use	Parking Requirement
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RESIDENTIAL DEVELOPMENT

Single-Family Dwellings <u>Detached and Attached Units</u>	2 spaces per dwelling unit
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Two-Family Dwellings s <u>Units</u>	2 spaces per dwelling unit, except that one-bedroom units shall require 1 space per unit
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Attached Housing	2 spaces per dwelling unit, except that one-bedroom units shall require 1 space per unit
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Multiple-Family Dwelling Units	1 space per one-bedroom unit and 2 spaces for each two- to four-bedroom unit 3 spaces for each five-bedroom or larger unit
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Residential Treatment Facilities	3 spaces for each 5 beds, except for uses exclusively serving children under 16 years of age, in which case 1 space for every 3 beds shall be required
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Boarding/ Rooming Houses	1 space per bedroom
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Barracks	1 space for each 5 beds
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Dormitories	1 space for each 4 beds
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Hotels and Similar Uses Providing Overnight Accommodation	1 space for each room available for rent, plus 1 space for each 2 employees working at any one time
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RETAIL COMMERCIAL ESTABLISHMENTS

Convenience Stores	1 space per 150 square feet of gross floor area
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Grocery Stores/Super Market/ Drug Store /General Merchandise	1 space per 150 square feet of gross floor area
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Other Retail Sales Establishments	1 space per 400 square feet of gross floor area
Eating and Drinking Places <u>Establishments</u> (no Drive-In or Fast Food)	1 space per 200 square feet of gross floor area
Drive-In or Fast Food Restaurant	1 space per 400 square feet of gross floor area
Auto Service Station	1 space per 200 square feet of gross floor area, plus sufficient space to accommodate vehicles at pumps without interfering with other parking spaces
Auto Repair/Maintenance/Tire Replacement <u>Shops</u>	1 space per 200 square feet of gross floor area
Auto Sales <u>and Service Establishments</u> (Display/Showroom Area Only)	1 space per 1,000 square feet of gross floor area <u>plus 1 space for each employee</u>
BUSINESS/PROFESSIONAL OFFICES/BANKS	1 space per 250 square feet of gross floor area, plus 1 space for every 4 employees
EDUCATIONAL FACILITIES	
Preschools/Day Care	1 space per classroom, plus 1 space for each 10 students (based on the rated capacity of the facility)
Elementary and Middle Schools	1.75 spaces per classroom, plus 1 space for each 8 students (based on the rated capacity of the facility)
Secondary Schools	5 spaces per classroom, plus 1 space for each 5 students (based on the rated capacity of the facility)
Business/Trade/Vocational <u>Schools</u>	1 space per 200 square feet of gross floor area
PUBLIC AND INSTITUTIONAL FACILITIES	
Hospitals/Health Care Facilities	1 space per bed, or 1 space per 250 square feet of gross floor area, whichever is greater
Nursing, Rest, Convalescent Homes	1 space per bed

Post Offices	1 space per 50 square feet of gross floor area
Government Offices/Courthouses	1 space per 250 square feet of gross floor area
Public Safety Facilities	1 space per 200 square feet of gross floor area
Houses of Worship/Places of Assembly	1 space for every 4 seats (fixed seating)
Libraries	1 space per 500 square feet of gross floor area
RECREATIONAL FACILITIES	
Parks and Recreational Areas	1 space per 5,000 square feet of land area
OTHER FACILITIES/ DEVELOPMENT	
Restricted Limited Manufacturing (new facility on vacant or cleared land)	1 space for every 2 employees on maximum shift, or 1 space per 400 square feet of gross floor area, whichever is greater.
Restricted Limited Manufacturing (conversion of existing improvements)	As practicable on the available lot, up to the greater of 1 space for any 2 employees on maximum shift or 1 space per 400 square feet of gross floor area. The acquisition of new or additional land shall not be required. ⁽¹⁾
Veterinarians/Kennels/Animal Hospitals	1 space per 300 square feet of gross floor area
Health Care Facilities	1 space for each 200 square feet of gross floor area
Museums/Art Galleries	1 space for each 300 square feet of floor area open to the general public
Dry Cleaners/Laundromat <u>Enterprises</u>	1 space per 200 square feet of gross floor area
Manufacturing/Assembling/ Fabrication Operation <u>Plants</u>	1 space for every 2 employees on maximum shift, or 1 space per 400 square feet of gross floor area, whichever is greater
Greenhouse/Nursery <u>OperationsFaciliities</u>	1 space per 1,000 square feet of lot area used for storage, display, or sales, plus 1 space per 400 square feet of gross floor area

Warehousing/Storage/Wholesale
Enterprises

1 space for every 2 employees on maximum shift, but not
less than 1 space per 2,000 square feet of gross floor area

⁽¹⁾ However, if the hearing examiner finds the proposed conditional use request may substantially reduce the existing parking for adjacent land uses in the neighborhood, additional off-street parking may be required to mitigate this impact.

(Ord. 792-02 § 1; Ord. 630 § 2[16.10.030(14)], 1995)

16.60.150 Off-street loading space requirements. 

A. On the same premises with every building, structure or part thereof erected and occupied for manufacturing, storage, warehousing, goods display, department store, wholesale store, retail sales outlet, hotel, hospital, mortuary, laundry, dry cleaning, or other uses similarly involving the receipt and distribution of vehicles, materials, or merchandise, there shall be provided and maintained on the lot adequate space for standing, turning, loading and unloading services to avoid interference with the public use of the streets and alleys.

Each such loading and unloading space shall be an area at least 12 by 50 feet with a 15-foot height clearance, and shall be provided as specified below for gross nonresidential (hotel rooms shall be defined as residential floor area for the purposes of this requirement) floor area, except that:

1. No spaces are required for structures with less than 10,000 square feet of gross floor area.
2. One space is required for structures with more than 10,000 but less than 20,000 square feet of gross floor area.
3. Additional off-street loading spaces shall be provided at a rate of one space for each additional 20,000 square feet or increment thereof.
4. No more than seven loading spaces shall be required, except for warehouse and industrial buildings.

B. Loading and unloading areas shall be so located and designed that the vehicles intended to use them can maneuver safely and conveniently to and from the roadway serving the property, and the loading/unloading operations can be completed without obstructing or interfering with any roadway traffic or any off-street parking space or parking lot aisle.

C. No area allocated to loading/unloading facilities may be used to satisfy the area requirements for off-street parking, nor shall any portion of any off-street parking area be used to satisfy the area requirements for off-street loading/unloading facilities.

D. For restricted limited manufacturing (conversion of existing improvements) off-street loading space shall only be required as specified in subsection A of this section to the extent practicable on the available lot. The acquisition of new or additional land shall not be required. (Ord. 792-02 § 2; Ord. 630 § 2[16.10.030(15)], 1995)

Chapter 16.72

RECREATIONAL AND OPEN SPACE STANDARDS

Sections:

[16.72.010 Applicability.](#)

[16.72.020 Exemption.](#)

[16.72.030 Recreation standards – Purpose.](#)

[16.72.040 Recreation design requirements.](#)

[16.72.050 Types of recreation facilities to be provided.](#)

[16.72.060 Open space standards.](#)

16.72.010 Applicability.

~~All types of residential subdivisions of more than 10 lots and multiple-family residential developments of more than 10 dwelling units shall be required to provide active recreation facilities in accordance with the standards in this chapter. In addition to the recreation requirements, these larger residential developments shall meet the open space requirements of this title chapter. The requirements of this chapter are in addition to park impact fee requirements of Chapter SMC 16.112 SMC. Residential developments include condominium, multifamily, manufactured home parks and subdivisions.~~ (Ord. 993-08 § 3; Ord. 716-00; Ord. 630 § 2[16.10.060(A)], 1995)

16.72.020 Exemption.

~~Large residential developments of less than 101 dwelling units and subdivisions of less than 11 lots are exempt from the requirements of these standards.~~ (Ord. 716-00; Ord. 630 § 2[16.10.060 (B)], 1995)

16.72.030 Recreation standards – Purpose.

The City has determined that it is important that each large residential development provide recreational facilities to serve the residents of such developments. This includes all residential developments over 10 dwelling units and subdivisions over 10 lots. If recreation areas are to be dedicated to the public and transferred to the City of Sultan, the City shall have the right to impose further specifications relating to such dedication, approvals, and/or inspections to the park or open space. (Ord. 716-00; Ord. 630 § 2[16.10.060(C)], 1995)

16.72.040 Recreation design requirements.

A. Recreation areas shall be calculated in an amount equal to 75 square feet per person expected to reside in that development.

B. For purposes of these standards, one-bedroom dwelling units shall be deemed to house an average of 2.5 persons, two-bedroom units 3.0 persons, three-bedroom units 4.0 persons, and units with four and more bedrooms 5.0 persons. In residential subdivisions that are not approved as architecturally integrated developments (i.e., attached housing or multifamily apartment developments), each lot that is large enough for only a single-family or two-family dwelling unit shall be deemed to house an average of 4.0 persons.

C. Recreation facilities shall be a minimum of 2,000 square feet.

D. Recreation areas shall be landscaped and shall be provided with sufficient natural or manmade screening or buffer areas to minimize any negative impacts upon adjacent residences. At a minimum, all recreation areas except those designated by the city council not to be necessary, shall have continuous landscaped buffers around their perimeters at least 10 feet wide and shall also provide protective fencing if deemed necessary by the city. The plant material selected to be planted within these buffer areas shall be such that they will provide a continuous vegetative screen mix of deciduous and evergreen shrubs and trees that shall reach a minimum height of six feet at maturity. All new vegetative material shall be guaranteed for a period of at least two years after installation and approved by the department of public works.

E. Each recreation area shall be centrally located and easily accessible by walkways so that it can be conveniently and safely reached and used by those persons ~~in the surrounding neighborhoods it is designed to serve~~ residing in the subject residential development. Therefore, no recreation area shall be located more than 2,000 feet from ~~the any~~ dwelling unit it is intended to serve. This distance shall be measured along the walkways and streets within the development, using the shortest route possible.

F. Each recreation area shall be constructed on land that is reasonably flat, dry, and capable of serving the purpose intended by these standards; provided, that ~~steeply sloped areas and/or floodplains may be used in the development of these recreation areas if flat areas are not available. Steeply sloped lands (in excess of 20 percent) may be appropriate for natural recreation areas. Floodplains are appropriate to be used for baseball, softball, or football fields. However, permanent structures shall be kept to a minimum in floodplains.~~ Recreation facilities shall not be placed within environmentally sensitive areas or their buffers.

G. Each development shall satisfy its recreation area requirements by installing the types of active recreational facilities that are most likely suited to an used by the age bracket and mobility of persons likely to reside in that development. ~~However, unless it appears through a study prepared by an authorized representative of the developer that less than five percent of the residents of any development are likely to be children under 12, or can be demonstrated that the proposed project will be marketed to age groups unlikely to include children, then at least 15 percent of the required recreation area must be satisfied by the construction of "tot lots" (i.e., Residential developments designed for families with children shall provide recreational facilities~~ areas equipped with imaginative play apparatus oriented to younger children as well as seating accommodations for adult supervision).

H. Table 1 indicates the number of required recreational facilities relative to the size of the residential project.

I. Where recreation facilities are provided, 25 percent of the facilities will be ADA accessible, pursuant to UBC Chapter 11, 1103.1.9.1, as adopted and amended by the city.

J. All recreational areas and facilities and equipment provided and constructed shall meet the minimum requirements of the Consumer Product Safety Guidelines for Public Playgrounds and the American Society for Testing and Materials F1487. (Ord. 786-02 § 1; Ord. 716-00; Ord. 630 § 2[16.10.060(C)(1)], 1995)

16.72.050 Types of recreation facilities to be provided. 

A. Each new development shall provide, at a minimum, facilities from the required list in Table 1 and a selection from the following list as stated from Table 1. The number of facilities that must be provided from this list shall be based on the number of dwelling units that are to be built in the development. Table 1 specifies the minimum number of facilities which must be provided.

**Table 1
– Types of Facilities/Minimum Recreational
Provision Requirements in Residential
Developments**

Types of Facilities:

- ~~A.~~ ~~Baseball field per Senior League requirements.~~
- ~~B.~~ ~~Softball field per Amateur Softball Association of America requirements.~~
- ~~AE.~~ Multipurpose court or playfield per City of Sultan requirements.
- ~~BD.~~ Playground area, consisting of four pieces of playground equipment including swings, slide, and climber designed for children under 8 years old.
- ~~CE.~~ Picnic area, consisting of at least five three or more of each picnic tables with benches, five-barbecues facilities, and five-secure in-place trash containers.

This picnic area shall have shade trees, one per table (in addition to required landscaping).

DL. Hiking, jogging, and/or biking trails per Ccity of Sultan requirements within the residential development and connected to public trails, where possible.

EG. A swimming pool for the private use of residents of the development area with a minimum of an 800-square-foot pool, a 3,200-square-foot deck, and as a minimum a perimeter fence as required by other codes.

FH. A one-quarter mile running track per National Collegiate Athletic Association requirements.

GI. Two lighted volleyball courts per United States Volleyball Association requirements.

HJ. A lighted soccer field per National Collegiate Athletic Association requirements.

IK. Two lighted handball courts per United States Handball Association requirements.

JD. A minimum of two lighted tennis courts per United States Lawn Tennis Association requirements.

KM. Exercise course per Ccity of Sultan requirements.

Number of Dwelling Units	Minimum # of Required Facilities
110 – 20	1
21 – 50	2
51 – 1070	3
1071 – 150	4
151 – 200	5
201 – 250	6
251 – 300	7
301 – 350	8
351 – 400	9
401 – 450+	10

B. Any dedication off-site, improvements off-site, or financial contribution previously made shall be held, used, administered and/or returned in accordance with the terms of the developer agreement or terms of approval for the development under which the dedication, improvement or payment occurred. (Ord. 886-05 §§ 1, 2; Ord. 854-04 §§ 1, 2, 3; Ord. 716-00; Ord. 630 § 2[16.10.060(C)(2)], 1995)

16.72.060 Open space standards. 

In addition to the recreation facilities requirement, at least 15 percent of the total land area of **any** residential subdivision of more than 10 lots and where a homeowners' association is to be established shall be dedicated as open space tracts (or parcels of land). Open space tracts shall be conveyed to homeowners' association by written instrument, ~~or dedicated to the city under conditions subject to city approval, and the homeowners' association will be responsible for any maintenance associated with the open space tracts.~~

~~Each tract must be under single ownership with area and dimensions not less than those prescribed by the appropriate dimensional and density requirements for the LMD and MD zoning districts. The tract may be divided by an existing public street that may be retained as a part of the plan for the~~

~~development. The minimum yard requirements of the dimensional and density requirements for the appropriate zoning district shall apply only to the periphery of the tract.~~

A. Open Space Permitted Uses. Floodways and environmentally sensitive areas, lands with slopes of 25 percent or more, utility easements, and lands not included within lots to be developed and sold or ~~dedicated~~ utilized for required public improvements ~~shall~~ may be recorded as open space tracts. Environmentally sensitive areas shall be marked with native growth protection signs. At least 75 percent of the ~~gross~~-required gross open space area shall be ~~open space~~-free of structures or other improvements from the ground to the sky, whether public or private. In the event that it is deemed necessary to set aside any portion of the site for public buildings, an agreement shall be entered into between the applicant and the city of Sultan. (Ord. 738-00; Ord. 716-00; Ord. 630 § 2[16.10.060(C)(3)], 1995)

Chapter 16.104

LANDSCAPING **STANDARDS**

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16.104.060 Landscaping requirements for certain yard areas and off-street parking and other vehicular use areas.

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Article I. Performance Standards

16.104.010 Purpose.

The objectives of this chapter are to improve the appearance of certain setback and yard areas, including off-street vehicular parking and open-lot sales and service areas; and to protect and preserve the appearance, character, and value of the surrounding neighborhoods and commercial businesses to thereby promote the general welfare by providing for installation and maintenance of landscaping for screening and aesthetic qualities of the city. (Ord. 718-00; Ord. 630 § 2[16.10.140(A)], 1995)

16.104.020 Enforcement.

These standards shall be considered as minimum requirements and shall apply to all new development (except a seasonal parking facility, single-family detached dwelling units and duplexes to be built on their own lot and not part of a subdivision) in the city that received preliminary plat approval before the effective date of the ordinance codified in this chapter. (Ord. 765-01 § 13; Ord. 718-00; Ord. 630 § 2[16.10.140(B)], 1995)

16.104.030 Installation.

All landscaping shall be installed in a sound, professional manner with the quality of plant materials as hereinafter described. All elements of landscaping shall be installed so as to meet all other applicable code requirements. Landscaped areas shall require protection from vehicular encroachment as hereinafter provided in SMC [16.104.220](#) and [16.104.230](#). The building and zoning official shall inspect all landscaping and no certificates of occupancy shall be issued until the landscaping meets the requirements provided herein. (Ord. 718-00; Ord. 630 § 2[16.10.140(C)], 1995)

16.104.040 Maintenance.

The owner, tenant and/or manager or agent of any property that is required to be developed in accordance with these standards shall be jointly and severally responsible for the maintenance of all landscaping which 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. (Ord. 718-00; Ord. 630 § 2[16.10.140(D)], 1995)

16.104.050 Existing plant material. 

In instances where healthy plant material exists on a site prior to its development, in part or in whole, for the purpose of providing landscaping for off-street parking or other vehicular use areas, the building and zoning official may adjust the application of these standards to allow credit for existing plant material if, in his or her written opinion, such an adjustment is in keeping with and will preserve the intent of these standards. (Ord. 718-00; Ord. 630 § 2[16.10.140(E)], 1995)

16.104.060 Landscaping requirements for certain yard areas and off-street parking and other vehicular use areas. 

These standards apply to all areas used for the display or parking of any and all types of vehicles, boats, or heavy construction equipment, whether such vehicles, boats, or equipment are self-propelled or not; and all land upon which vehicles traverse the property as a function of the primary use, including but not limited to activities of a drive-in nature, such as gasoline filling and/or service stations, grocery stores, banks, restaurants, and the like. The development of these activities shall conform to the minimum landscaping requirements hereinafter provided. (Ord. 718-00; Ord. 630 § 2[16.10.140(F)], 1995)

16.104.070 Plant material standards. 

A. Quality. Plant materials used in conformance with the provisions of these standards shall be free of any disease at the time of planting. All plant materials shall be examined by the building, zoning official, city construction inspector one year from the date of their installation and any ground cover, shrubs, or trees found to be in a less than healthy and growing condition shall be replaced by the owner, developer, or their agent.

B. Trees. All plant material designated as “trees” on an approved site plan shall be species that are rated as having an average mature spread of crown of greater than 10 feet in the state of Washington. Tree species shall be a minimum of seven feet in overall height measured from the top of the root collar at the time of planting. Trees of species whose roots are known to cause damage to roadways or other public works shall not be planted closer than 12 feet to any roadway, water line or sewer line, unless the tree root system is completely contained within a barrier form, of which the interior containing dimensions shall be five feet square and five feet deep, and for which the construction requirements shall be four-inch thick concrete reinforced with No. 6 road mesh (six by six by six) or equivalent. A list of such tree species shall be maintained by the building and zoning official for the guidance of the public.

C. Shrubs and Hedges. Shrubs shall be a minimum of two feet in height when measured at the time of planting. Hedges, where required, shall be planted and maintained so as to establish a continuous, unbroken, solid visual screen within a maximum of one year from the date of installation.

D. Vines. Vines shall be a minimum of 30 inches in length at the time of installation and may be used in conjunction with fences, screens, or walls.

E. Ground Covers. Ground covers used in lieu of grass shall be planted in such a manner as to present a finished appearance and reasonably complete coverage within three months after installation.

F. Lawn Grass. Grass areas shall be planted in species successfully grown as permanent lawns in the state of Washington. Grass areas may be sodded, plugged, sprigged, or seeded, except that solid sod shall be used in areas subject to erosion. (Ord. 718-00; Ord. 630 § 2[16.10.140(G)], 1995)

Article II. Design Standards

16.104.080 Landscape design standards.

The following standards shall be considered the minimum requirements for the installation of all plant materials in the city of Sultan. (Ord. 718-00; Ord. 630 § 2[16.10.150], 1995)

16.104.090 Minimum tree and shrub planting or preservation requirements.

A. General. Trees shall not be placed so as to interfere with site drainage, or where they shall require frequent pruning to avoid interference with overhead power and utility lines. Unless otherwise provided in these standards, a minimum number of trees shall be planted or preserved on each site, as follows:

1. Single-Family Residential Lots. One tree shall be planted or preserved for every 5,000 square feet of area or fraction thereof of a single-family residential lot. Trees larger than the minimum size may be credited as indicated in Table B contained in these standards.

2. Multifamily Residential or Nonresidential Lots. One tree shall be planted or preserved for every 2,000 square feet of lot area or fraction thereof of either a multifamily residential or nonresidential lot. Trees larger than the minimum size may be credited as indicated on Table B contained within these standards. Additional trees preserved on each lot shall only count for that lot/unit.

B. Wall treatment or landscaping shall be used to soften the impact of large blank walls of multifamily or nonresidential structures. The purpose of this requirement is to incorporate these large structures into the surrounding landscaping and to create a natural and enjoyable work and living environment. Screening or wall treatment shall be installed at a minimum of 10 feet in height and plant material installed shall meet the minimum height requirements of this section. (Ord. 718-00; Ord. 630 § 2[16.10.150(A)], 1995)

16.104.100 Allocation of trees to satisfy minimum planting requirements.

A. Where Trees May Be Credited. Trees required to be planted or preserved by these standards shall be used to satisfy the following requirements of other sections of this unified development code, including:

1. Interior of parking or other vehicular use areas;

2. Perimeter of parking or other vehicular use areas; and

3. Perimeter buffers in multifamily residential or nonresidential areas.

B. Where Trees May Not Be Credited. Trees required to be planted or preserved by these standards that lie outside the property lines of the subject site may not be credited in the tabulation of the required number of trees to be provided.

C. General. In enacting this minimum tree planting requirement, it is the intent to require that a canopy of trees be developed throughout any site proposed for development. This subsection establishes a formula for allocating a certain number of trees to each subarea in a site development. Preservation areas are excluded from the total area in calculating the tree planting requirements as an incentive to preserve significant vegetation. The actual number of trees to be planted or preserved will be established on the individual site development plan(s).

D. Allocation Formula. The minimum number of trees required to be planted or preserved within a site shall be determined by applying the formula established in these standards in SMC 16.104.090. The minimum number of trees required to be planted in a subarea or phase shall be in proportion to the total number of trees required to be planted in the overall site development. This proportion shall be determined by calculating the percent of the subarea or phase relative to the total site proposed for development. (Ord. 718-00; Ord. 630 § 2[16.10.150(B)], 1995)

Article III. Standards for Landscape Materials

16.104.110 Tree planting standards.

Immediately upon planting, trees shall be a minimum of seven feet in trunk height and shall have a minimum caliper of one and one-half inches measured from a height of six inches above the ground. (Ord. 718-00; Ord. 630 § 2[16.10.160(A)], 1995)

16.104.120 Tree species mix.

When more than 10 trees are required to be planted, a mix of species shall be provided. The number of species to be planted shall vary according to the total number of trees required. The minimum number of species to be planted is indicated in the following table. Species shall be planted in proportion to the required mix. This species mix shall not apply to areas of vegetation required to be preserved by law.

Table A

Required Species Mix for New Site Development

Required Number of Trees	Minimum of Species
--------------------------	--------------------

11 – 20	2
21 – 30	3
31 – 40	4
41 or more	5

(Ord. 718-00; Ord. 630 § 2[16.10.160(B)], 1995)

16.104.130 Shrub planting standards.  SHARE

Shrubs required to be planted in accordance with these standards shall be a minimum of 24 inches in height from the top of the root collar at the time of planting, and spaced 18 to 36 inches on center. Spacing of individual plants shall depend on the types of shrubs that are to be installed. Exceptions and/or substitutions from this requirement may be approved by the building and zoning official to promote the use of slow growing or native plant material. (Ord. 718-00; Ord. 630 § 2[16.10.160(C)], 1995)

16.104.140 Use of larger tree sizes.  SHARE

Credits for the use of larger trees than the minimum required size will be as indicated in the following table. Fractional measurements shall be attributed to the next lowest category.

Table B

Calculation of Tree-Size

Credits in New Site Development

Crown Spread of Proposed Trees	and	Height at Planting of Proposed Trees	Number = of Tree Credits
14 or more feet	and	25 feet or more	= 4
10 – 13 feet	and	17 – 24 feet	= 3
6 – 9 feet	and	11 – 16 feet	= 2
less than 6	and	10 feet or	= 1

feet	less
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(Ord. 718-00; Ord. 630 § 2[16.10.160(D)], 1995)

16.104.150 Use of native plant materials. [SHARE](#)

Trees and other vegetation shall be planted in soil and climatic conditions which are appropriate for their growth habits and characteristics. Plants used in landscape design pursuant to this section shall, to the greatest extent possible be:

- A. Appropriate to the conditions in which they are to be planted;
- B. Have noninvasive growth habits;
- C. Encourage low maintenance, high quality design; and
- D. Be otherwise consistent with the intent of these standards. (Ord. 718-00; Ord. 630 § 2 [16.10.160(E)], 1995)

16.104.160 Use of adapted plant materials. [SHARE](#)

The use of plant materials adapted to the vicinity of the development is encouraged to reduce water consumption, general maintenance, and the dependence on fertilizers and insecticides. (Ord. 718-00; Ord. 630 § 2[16.10.160(F)], 1995)

16.104.170 Replacement requirements. [SHARE](#)

Vegetation that is required to be planted or preserved by these standards shall be replaced with equivalent vegetation if it is not living within one year of the issuance of an occupancy permit. Preserved trees for which credit was awarded that die within one year from the date of issuance of an occupancy permit shall be replaced by the required number of living trees as established in these standards. (Ord. 718-00; Ord. 630 § 2 [16.10.160(G)], 1995)

16.104.180 Maintenance standards for cultivated landscape areas. [SHARE](#)

The owner or agent of land subject to these standards shall be responsible for the maintenance of said land in good condition so as to present a healthy and neat appearance, and said land shall be kept free from refuse and debris. (Ord. 718-00; Ord. 630 § 2[16.10.160(H)(1)], 1995)

16.104.190 Landscape plan requirements. [SHARE](#)

A. General. Prior to the issuance of any building permit for any development other than a single- or two-family home on its own lot, a landscape plan shall be submitted to the building and zoning official for review and approval.

B. Contents of Landscape Plans. Landscape plans shall:

1. Be drawn to scale of preliminary site plan and include dimensions and distances;
2. Delineate existing and proposed parking spaces and/or other vehicular use areas;
3. Designate by name and location all plant material to be installed or preserved in accordance with these or any other applicable standards;
4. Identify and describe all other landscape material and elements proposed to be used;
5. Show all landscape features, including areas of vegetation to be preserved in relationship to all existing or proposed building and/or any other improvements to the site;
6. Include a tabular summary clearly indicating the relevant statistical information necessary for the building and zoning official to determine compliance with the provisions of these standards. This information shall include gross acreage, square footage of vegetation preservation areas, the number of trees to be planted or preserved, square footage of paved areas, and such other information as the building and zoning official may require. (Ord. 718-00; Ord. 630 § 2[16.10.140(H)(1)(a)], 1995)

Article IV. Location Requirements

16.104.200 Required landscaping adjacent to public rights-of-way.

On the site of a building providing an off-street parking area or other vehicular use area, where such area will not be entirely screened visually by an intervening building or structure from any abutting right-of-way, there shall be provided landscaping between such area and such right-of-way, as follows:

A. A strip of land at least five feet in width, located between the abutting right-of-way and the off-street parking areas or other vehicular use area, which is exposed to an abutting right-of-way, shall be landscaped. Such landscaping shall include one tree for each 25 lineal feet or fraction thereof. Such trees shall be located between the abutting right-of-way and off-street parking or other vehicular use area and shall be installed in a planting area of at least 25 square feet, with one dimension being at least five feet. In addition, a hedge at least two feet in height shall be placed along the perimeter of such landscaped strip. The remainder of the required landscaped areas shall be planted with grass, ground cover, or other landscape treatment, excluding paving.

B. All property abutting a right-of-way, other than the required landscaped strip lying between the right-of-way and off-street parking or other vehicular use areas, shall be landscaped with, at a minimum, grass or other ground cover.

C. Necessary accessways from the public right-of-way through all such landscaping shall be permitted to service the parking or other vehicular use area. Such accessways, however, may not be subtracted from the lineal dimension used to determine the number of trees required. (Ord. 718-00; Ord. 630 § 2[16.10.170(A)], 1995)

16.104.210 Perimeter landscaping relating to abutting properties.

A. On the site of a building or structure providing an off-street parking or other vehicular use area, where such areas will not be entirely visually screened by an intervening building or structure from any abutting property, that portion of such area not so screened shall be provided with a hedge that is determined to attain, at maturity, not greater than eight feet, nor less than three and one-half feet in height, to form a continuous screen between the off-street parking or other vehicular use areas and such abutting property. This landscaped barrier shall be located between the common lot line and the off-street parking or other vehicular use area exposed to the abutting property. All plant materials shall be installed in a planting strip not less than two and one-half feet in width.

B. Additionally, one tree shall be provided for each 25 lineal feet of landscape barrier, or fractional part thereof. Such trees shall be located between the common lot line and the off-street parking or vehicular use area. Each tree shall be installed within a 25-square-foot planting area, and no dimension of this area shall be less than five feet. Each such planting area shall be landscaped with grass, ground cover or other landscape material, excluding paving, in addition to the required tree.

C. Exceptions. The provisions of this section shall not be required to be met in the following situations:

1. Where a proposed parking or other vehicular use area abuts an existing hedge, wall, or other durable landscaping barrier on an abutting property, said existing barrier may be used to satisfy the landscape barrier requirements of this subsection; provided, that said barrier meets all applicable standards of this law, and protection against vehicular encroachment is provided for by hedges.

B. Where the abutting property is zoned or used for nonresidential activities, only the tree provision with its planting areas as prescribed in this section shall be required. (Ord. 718-00; Ord. 630 § 2[16.10.170(B)], 1995)

16.104.220 Parking area interior landscaping.

A. Off-street parking areas shall have at least 10 square feet of interior landscaping for each parking space, excluding those spaces abutting a perimeter for which landscaping is required by any other section of this unified development code, and excluding all parking spaces that are directly served by an aisle abutting and running parallel to such a perimeter.

B. Additionally, other vehicular use areas shall have one square foot of landscaped area for each 100 square feet of paved area or fraction thereof for the first 10,000 square feet of paved surface, plus one square foot of landscaped area for each 200 square feet or fraction thereof of paved area for all pavement surfaces over 10,000 square feet.

C. Where the property contains both parking and other vehicular use areas (off-street loading space, for example), the two types of areas shall be separated for the purpose of determining the landscape requirements of the other vehicular use area. Each separate landscaped area shall contain a minimum of 50 square feet and shall have a minimum dimension along any one side of five feet.

D. Each separate landscaped area shall include at least one tree having a clear trunk of at least five feet, with the remaining area landscaped with shrubs, ground cover, or other vegetative material not to exceed three feet in height.

E. The total number of trees shall be not less than one for each 100 square feet or fraction thereof of required interior landscaped area. Such landscaped areas shall be located in such a manner as to visually divide and break up the expanse of parking.

F. The front of a vehicle may encroach upon any interior landscaped area when said area is at least three and one-half feet in depth per abutting parking space and protected by wheel stops or curbing. Two feet of said landscaped area may be part of the required depth of each abutting parking space. (Ord. 718-00; Ord. 630 § 2[16.10.170(C)], 1995)

16.104.230 Sight distance for landscaping adjacent to public rights-of-way and points of access.



When an accessway intersects a public right-of-way, or when a subject property abuts the intersection of at least two public rights-of-way, all landscaping within the triangular areas described herein shall provide unobstructed cross-visibility at a level between three and six vertical feet; provided, however, that trees shall have their limbs and/or foliage trimmed in such a manner that no visual impediment exists within the cross-visibility area; and further provided, that any trees are located in such a manner as to create no traffic hazard. Landscaping, except required grass or ground cover, shall not be located closer than three feet from the edge of any accessway pavement. The triangular areas referred to above are shown on the diagram entitled "Sight Triangle Requirements" which indicate the clearances required for the different street types. (Ord. 718-00; Ord. 630 § 2[16.10.170(D)], 1995)

16.104.240 Adjustments of standards.



The building and zoning official, upon receipt of an application for adjustment of the landscaping requirements provided herein, and executed and sworn to by the owner of the property concerned or his authorized agent, shall have the authority and duty to consider and act upon such application. The applicant shall clearly and in detail state what adjustment of requirements are being requested and the reasons that such adjustments are warranted. The application shall be accompanied by supplemental data, such as sketches, surveys, and statistical information, as is deemed necessary to support the adjustment. The building and zoning official may approve, modify, or deny the requested adjustment, but shall approve or modify only if he or she determines that any adjustment would not be contrary to the public interest, would be in keeping with and preserve the intent of this chapter, and literal enforcement of the above standards would be impracticable and would result in an unreasonable and unnecessary hardship. The building and zoning official shall act upon any such application within 30 calendar days of its official submission by the applicant. If the department does not take any official action within the aforesaid 30-day period, or if there is no mutually agreed upon extension of the time beyond the 30 days, in writing, between the applicant and the building and zoning official, then the application shall be considered to be approved. (Ord. 718-00; Ord. 630 § 2[16.10.170(E)], 1995)

16.104.250 Other applicable requirements. 

The provisions of these standards shall be subject to other applicable codes and regulations where such regulations are more restrictive and are not otherwise inconsistent with the provisions of these standards. (Ord. 718-00; Ord. 630 § 2[16.10.170 (F)], 1995)

Chapter **216.108**

WIRELESS COMMUNICATIONS FACILITIES STANDARDS

Sections:

216.108.010 Purpose.

216.108.020 Definitions.

216.108.030 Exemptions.

216.108.040 Development standards for micro-facilities.

216.108.050 Development standards for mini-facilities.

216.108.060 Development standards for macro-facilities.

216.108.070 Development standards for monopole I and monopole II.

216.108.080 Development standards for lattice towers.

216.108.090 Design criteria.

216.108.100 Submittal requirements.

216.108.110 Permits required.

216.108.120 Inspection requirements.

216.108.130 Landscaping/screening.

216.108.140 Non-use/abandonment/obsolescence.

216.108.150 Violation – Penalty.

216.108.010 Purpose. 

In addition to furthering the general purposes of the comprehensive plan and ~~SMC Title 16, the Unified Development Code (UDC) the Zoning Code~~, this section is ~~included in the Sultan Municipal Code~~ to provide for a wide range of locations and options for wireless communication providers while minimizing the unsightly characteristics associated with wireless communication facilities and to encourage creative approaches in locating wireless communication facilities which will blend in with the surroundings of such facilities. (Ord. 720-00)

216.108.020 Definitions. 

For this chapter the following terms shall have the meaning ascribed to them below:

A. "Abandonment" means:

1. To cease operation for a period of 60 or more consecutive days;
2. To reduce the effective radiated power of an antenna by 75 percent for 60 or more consecutive days;
3. To relocate an antenna at a point less than 80 percent of the height of an antenna support structure;
or
4. To reduce the number of transmissions from an antenna by 75 percent for 60 or more consecutive days.

B. "Antenna" means any exterior apparatus designed for telephonic, radio, data, internet, or television communications through the sending and/or receiving of electromagnetic waves, and includes equipment attached to a tower or building for the purpose of providing personal wireless services, including unlicensed wireless telecommunications services, wireless telecommunications services utilizing frequencies authorized by the Federal Communications Commission for cellular, enhanced specialized mobile radio, personal communications services, telecommunication services, and attendant base stations.

C. "Antenna height" means the vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure even if said highest point is an antenna. Measurement of tower height shall include antenna, base pad, and other appurtenances and shall be measured from the finished grade of the parcel. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

D. "Antenna support structure" means any pole, telescoping mast, tower, tripod, or other structure which supports a device used in the transmitting, receiving or radio frequency signals.

E. "Applicant" means any provider or any person, partnership, or company who files an application for any permit necessary to install, maintain, or remove a personal wireless service facility within the city.

F. "Cell site (site)" means a tract or parcel of land that contains personal wireless service facilities including any antenna, support structure, accessory buildings, parking, and may include other uses associated with and ancillary to personal wireless services.

G. "Co-location" means the use of a personal wireless service facility or cell site by more than one personal wireless service provider.

H. "COW" means cell on wheels.

I. "Design" means the appearance of personal wireless service facilities, including such features as their materials, colors, and shape.

J. "EIA" means Electronics Industry Association.

K. "Equipment enclosure" means a structure, shelter, cabinet or vault used to house and protect the electronic equipment necessary for processing wireless communication signals. Associated equipment may include air conditioning, backup power supplies, and emergency generators.

L. "FAA" means the Federal Aviation Administration.

M. "FCC" means the Federal Communications Commission.

N. "Governing authority" means the city council of the city of Sultan.

O. "Macro-facilities" means larger than a micro-facility and are the largest wireless communication facilities allowed on monopoles I and II. Height can exceed 15 feet.

P. "Micro-facilities" means smaller than a macro-facility and can exceed a height of 10 feet.

Q. "Mini-facilities" means attached wireless communication facilities which consist of antennas equal to or less than 10 feet in height or a parabolic antenna up to one meter (39.37 inches) in diameter and with an area not more than 50 square feet in the aggregate as viewed from any one point.

R. "Modification" means the changing of any portion of a personal wireless service facility from its description in a previously approved permit. Examples include, but are not limited to, changes in design.

S. Monopole I and II.

1. "Monopole I" means a wireless communication facility which consists of a support structure, the height of which shall not exceed 60 feet.

2. "Monopole II" means a wireless communication facility which consists of a wireless communications support structure, greater than 60 feet (maximum of 150 feet per SMC 216.108.070) in height erected to support wireless communication antennas and connecting appurtenances.

T. "Mount" means the structure or surface upon which personal wireless service facilities are mounted. There are three types of mounts:

1. "Building-mounted" means a personal wireless service facility mount fixed to the roof or side of a building;

2. "Ground-mounted" means a personal wireless service facility mount fixed to the ground, such as a tower;

3. "Structure-mounted" means a personal wireless service facility fixed to a structure other than a building, such as light standards, utility poles, and bridges.

U. "Personal wireless service facilities (facilities)" means facilities for the transmission and reception of radio or microwave signals used for communication, cellular phone, personal communications services, enhanced specialized mobile radio, and any other wireless services licensed by the FCC and unlicensed wireless services.

V. "Provider" means every corporation, company, association, joint stock company, firm, partnership, limited liability company, other entity and individual which provides personal wireless service over personal wireless service facilities.

W. "Screening" means a personal wireless telecommunication facility such as a tower or mount placed amongst and adjacent to (within 20 feet) three or more trees at least 75 percent of the height of the facility.

X. "Secondary use" means a use subordinate to the principle use of the property, such as commercial, residential, utilities, etc.

Y. "Security barrier" means a wall, fence, or beret that has the purpose of seating a personal wireless service facility from unauthorized entry or trespass.

Z. "Tower" means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term encompasses personal wireless service facilities including radio and television-transmission towers, microwave towers, common-carrier towers; cellular telephone towers or personal communications services towers, alternative tower structures, and the like.

AA. "Unlicensed wireless services" means commercial mobile services that operate on public frequencies and do not need an FCC license. (Ord. 720-00)

216.108.030 Exemptions. 

The following are exempt from the provisions of this chapter and shall be permitted in all zones:

A. Industrial processing equipment and scientific or medical equipment using frequencies regulated by the FCC.

B. Antennas and related equipment no more than three feet in height that are being stored, shipped, or displayed for sale.

C. Radar systems for military and civilian communication and navigation.

D. Wireless radio utilized for temporary emergency communications and navigation.

E. Licensed amateur (ham) radio stations.

F. Satellite dish antennas less than two meters in diameter, including direct to home satellite services, when used as a secondary use of the property.

G. Routine maintenance or repair of a personal wireless service facility and related equipment (excluding structural work or changes in height or dimensions of antennas, towers, or buildings); provided, that compliance with the standards of this chapter are maintained.

H. Subject to compliance with all applicable standards of this chapter, a building permit application need not be filed for emergency repair or maintenance of a personal wireless service facility unless the repair activity exceeds 30 days.

I. A COW or other temporary personal wireless telecommunications facility shall be permitted for a maximum of 90 days or during an emergency declared by the city, or in some circumstances, a federal disaster. (Ord. 720-00)

216.108.040 Development standards for micro-facilities. 

A. Micro-facilities are permitted in all zones.

B. A micro-facility shall be located on existing buildings, poles or other existing support structures. A micro-facility may locate on buildings and structures; provided, that, the interior wall or ceiling immediately adjacent to the facility is not designated residential space.

C. Antennas equal to or less than four feet in height (except omni-directional antennas which can be up to six feet in height) are exempt from height limitation of the zone in which they are located. Structures which are nonconforming with respect to height may be used for the placement of omni-directional antennas providing they do not extend more than six feet above the existing structure. Placement of an antenna on a nonconforming structure shall not be considered to be an expansion of the nonconforming structure.

D. The micro-facility shall be exempt from review by the design review committee if the antenna and related components are the same color as the existing building, pole or support structure on which it is proposed to be located.

E. The shelter or cabinet used to house radio electronic equipment shall be contained wholly within a building or structure, or otherwise appropriately concealed, camouflaged or located underground.

F. In single-family residential zones, micro-facilities for a specific wireless provider shall be separated by a distance equal to or greater than 1,320 linear feet from other micro-facilities of the same wireless provider. (Ord. 720-00)

216.108.050 Development standards for mini-facilities. 

A. Mini-facilities are permitted in the highway oriented ~~development-commercial~~ (HOC~~D~~), urban center (UC), and ~~economic development (ED)-manufacturing (M)~~ zones only.

B. The mini-facility may be located on buildings and structures; provided, that, the immediate interior wall or ceiling adjacent to the facility is not a designated residential space.

C. The mini-facility shall be exempt from review by the design review committee if the antenna and related components are the same color as the existing building, pole or support structure on which it is proposed to be located.

D. The shelter or cabinet used to house radio electronic equipment shall be contained wholly within a building or structure, or otherwise appropriately concealed, camouflaged or located underground.

E. Mini-facilities shall comply with the height limitation specified for all zones except as follows: Omni-direction antennas may exceed the height limitation by 10 feet and, in the case of nonconforming structures, the antennas may extend 10 feet above the existing structure. Panel antennas may exceed the height limitation if affixed to the side of an existing nonconforming building and blend in architecturally with the building. Placement of an antenna on a nonconforming structure shall not be considered to be an expansion of the non-conforming structure. (Ord. 720-00)

216.108.060 Development standards for macro- facilities. 

A. Macro-facilities are permitted in highway oriented development (HOD), urban center (UC) and economic development (ED) zones only.

B. Macro-facilities may be located on buildings and structures; provided, that the immediate interior wall or ceiling adjacent to the facility is not a designated residential space.

C. The macro-facility shall be exempt from review by the design review committee if the antenna and related components are the same color as the existing building, pole or support structure on which it is proposed to be located.

D. The shelter or cabinet used to house radio electronic equipment shall be contained wholly within a building or structure, or otherwise appropriately concealed, camouflaged or located underground.

E. Macro-facilities shall comply with the height limitation specified for all zones, except as follows: omnidirectional antennas may exceed the height limitation by 15 feet, or, in the case of non-conforming structures, the antennas may extend 15 feet above the existing structure. Panel antennas may exceed the height limitation if affixed to the side of an existing building and architecturally blends in with the building. Placement of an antenna on a non-conforming structure shall not be considered to be an expansion of the nonconforming structure. (Ord. 720-00)

216.108.070 Development standards for monopole I and monopole II. 

A. Monopole I or II shall be permitted in the highway oriented development (HOD) and economic development (ED) zones only.

B. Monopole facilities adjacent to residential zones, shall be set back a distance equal to the height of the wireless communication support structure from the nearest residential lot line (e.g., monopole I – 60 feet from nearest residential lot line and monopole II – 150 feet from nearest residential lot line).

C. Maximum Height Restrictions.

1. Monopole I – 60 feet maximum structure (75 feet total for 60-foot structure plus 15-foot antenna)

2. Monopole II – 150 feet maximum structure (165 feet total for 150-foot structure plus 15- foot antenna)

D. Co-location on an existing support structure shall be permitted.

E. Macro-facilities are the largest wireless communication facilities allowed on monopole I and II.

F. The shelter or cabinet used to house radio electronics equipment and the associated cabling connecting the equipment shelter or cabinet to the monopole facility support structure shall be concealed, screened, camouflaged or placed underground and shall be subject to review by the design review committee using the procedures and review criteria specified in the SMC.

G. Monopole facilities shall be landscaped. Landscaping shall be approved by the design review committee and shall include, but not be limited to, low maintenance shrubs, trees for screening, and/or removal of excess foliage and vines.

H. Monopole facilities shall be separated from each other by a distance equal and greater than 1,320 feet. (Ord. 720-00)

216.108.080 Development standards for lattice towers. 

A. Lattice towers are permitted in the ~~economic development (ED)~~ manufacturing (M) zone only.

B. Lattice towers are only permitted if the wireless communications structure is built to accommodate two or more wireless communications facilities at the time of erection.

C. Lattice towers adjacent to residential zones shall be set back a distance equal to the height of the wireless communication support structure from the nearest residential lot line (i.e., 150 feet from nearest residential lot line)

D. Maximum Height Restriction. One hundred fifty feet maximum lattice structure (from surrounding natural grade). May extend antenna a maximum of 15 feet for a maximum facility height of 165 feet.

E. Macro-facilities are the largest permitted wireless communication facilities allowed on a lattice tower.

F. Co-location on an existing support structure shall be permitted without applying for an additional permit; provided, that there is no substantial change to the existing support structure.

G. The shelter or cabinet used to house radio electronics equipment and the associated cabling connecting the equipment shelter or cabinet to the lattice tower support structure shall be concealed, screened, camouflaged or placed underground. Lattice towers shall be subject to review by the design review committee using the criteria specified in this chapter.

H. Lattice towers shall be landscaped. Landscaping shall be approved by the design review committee and shall include but not be limited to: low maintenance shrubs, trees for screening, and/or removal of excess foliage and vines.

I. Lattice towers shall be separated from each other by a distance equal to or greater than 1,320 feet. (Ord. 720-00)

216.108.090 Design criteria. 

A. As provided above, new facilities shall be designed to accommodate co-location, unless the applicant demonstrates why such design is not feasible for economic, technical, or physical reasons and would cause undue hardship.

B. Facilities shall be architecturally compatible with the surrounding buildings and land uses in the zoning district and screened or otherwise integrated, through location and design, to blend in with the existing characteristics of the site.

1. Setbacks shall meet requirements of the applicable above SMC [216.108.070](#) or [216.108.080](#).

2. Right-of-Way Setback Exception. The setback requirement may be waived if the antenna and antenna support structure are located in the city right-of-way (ROW).

3. View Corridors. Due consideration will be given so that placement of towers, antennas, and personal wireless facilities do not obstruct or significantly diminish the view of the Cascade Mountains.

4. Color. Towers shall have a color generally matching the surroundings or background that minimizes their visibility, unless a different color is required by the FCC or FAA.

5. Lights, Signals, and Signs. No signals, lights, or signs shall be permitted on towers unless required by the FCC or the FAA. Should lighting be required, in cases where there are residents located within a distance which is 300 percent of the height of the tower, then dual mode lighting shall be requested from the FAA.

6. Equipment Structures. Ground level equipment, buildings, and the tower base shall be screened from public view. The standards for the equipment buildings are as follows:

a. The maximum floor area is 300 square feet and the maximum height is 12 feet. Except in unusual circumstances or for other public policy considerations the equipment building may be located no more than 250 feet from the tower or antenna. Depending upon the aesthetics and other issues, the city, in its sole discretion, may approve multiple equipment structures or one or more larger structures.

b. Ground level buildings shall be screened from view by landscape plantings, fencing, or other appropriate means, as specified herein or in other city ordinances.

c. Equipment buildings mounted on a roof shall have a finish similar to the exterior building walls. Equipment for roof-mounted antenna may also be located within the building on which the antenna is mounted.

d. In instances where equipment buildings are located in residential zones, equipment buildings shall comply with setback requirements and shall be designed so as to conform in appearance with nearby

residential structures. Equipment buildings, antenna, and related equipment shall occupy no more than 25 percent of the total roof area of the building the facility is mounted on, which may vary in the city's sole discretion if co-location and an adequate screening structure is used. The use must be approved on a site plan or final development plan, as applicable.

7. Federal Requirements. All towers must meet or exceed current standards and regulation of the FAA, the FCC, and any other agency of the federal government with the authority to regulate towers and antennas. If those standards and regulations are changed, then personal wireless service providers governed by this chapter shall bring their towers and antennas into compliance with the revised standards and regulations within three months of their effective date or the timelines provided by the revised standards and regulations, whichever time period is longer. The revised standards and regulations are not retroactively applicable to existing providers, unless otherwise provided or permitted by federal law. Failure to bring towers and antennas into compliance with the revised standards and regulations shall constitute grounds for the city to remove a provider's facilities at the provider's expense.

8. Building Codes – Safety Standards. To ensure the structural integrity of towers, the owner of a tower shall ensure that is maintained in compliance with standards contained in applicable city building codes and the applicable standards for towers that are published by the Electronic Industries Association (EIA), as amended from time-to-time. If, upon inspection, the city concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have 30 days to bring the tower into compliance with such standards. If the owner fails to bring its tower into compliance within 30 days, the city may remove the tower at the owner's expense.

9. Structural Design. Towers shall be constructed to the EIA Standards, which may be amended from time to time, and to all applicable construction/building codes. Further, any improvements or additions to existing towers shall require submission of site plans stamped by a professional engineer which demonstrate compliance with the EIA Standards and all other good industry practices. The plans shall be submitted and reviewed at the time building permits are requested.

10. Fencing. A well-constructed wall or wooden fence not less than six feet in height from the finished grade shall be provided around each personal wireless service facility. Access to the tower shall be through a locked gate. The use of chain link, plastic, vinyl, or wire fencing is prohibited unless it is fully screened from public view by a minimum eight-foot-wide approved landscaping strip.

11. Tower and Antenna Height. The applicant shall demonstrate that the tower and antenna is the minimum height required to function satisfactorily. No tower or antenna that is taller than this minimum height shall be approved. A variance from the height limit may be granted if the applicant can show by clear and convincing evidence that the additional height is necessary to provide adequate service to the residents of the city and no other alternative is available. Variances may only be granted in cases of hardship pursuant to [SMC Chapter 16.120 SMC](#).

12. **Antenna Support Structure Safety.** The applicant shall demonstrate that the proposed antenna and support structure are safe and the surrounding areas will not be negatively affected by support structure failure, falling ice, or other debris or interference. All support structures shall be fitted with anti-climbing devices, as approved by the manufacturers.

13. **Required Parking.** If the cell site is fully automated, adequate parking shall be required for maintenance workers. If the site is not automated, arrangements for adequate off-street parking shall be made and documentation thereof provided to the city. Security fencing should be colored or should be of a design which blends into the character of the existing environment.

14. **Tower separation.** In no case shall towers be located closer than 1,320 feet from another tower whether it is owned or utilized by applicant or another provider.

15. **Antenna Criteria.** Antenna on or above a structure shall be subject to the following:

a. The antenna shall be architecturally compatible with the building and wall on which it is mounted, and shall be designed and located so as to minimize any adverse aesthetic impact.

b. The antenna shall be mounted on a wall of an existing building in a configuration as flush to the wall as technically possible and shall not project above the wall on which it is mounted unless it must be for technical reasons. In no event shall an antenna project more than 16 feet above the roof line including parapets.

c. The antenna shall be constructed, painted, or fully screened to match as closely as possible the color and texture of the building and wall on which it is mounted.

d. The antenna may be attached to an existing conforming mechanical equipment enclosure which projects above the roof of the building per SMC [216.108.040](#) and [216.108.060](#).

e. If an accessory equipment shelter is present, it must blend with the surrounding buildings in architectural character and color.

f. The structure must be architecturally and visually (color, size, bulk) compatible with surrounding existing buildings, structures, vegetation, and uses. Such facilities will be considered architecturally and visually compatible if they are camouflaged to disguise the facility.

g. Site location and development shall preserve the pre-existing character of the site as much as possible. Existing vegetation should be preserved or improved, and disturbance of the existing topography of the site should be minimized, unless such disturbance would result in less visual impact of the site on the surrounding area. The effectiveness of visual mitigation techniques must be evaluated by the city, in the city's sole discretion.

h. For installation on buildings greater than 30 feet in height, see other applicable provisions of this chapter. In addition to the other requirements of this chapter, on buildings 30 feet or less in height, the antenna may be mounted on the roof if the following additional criteria are satisfied:

- i. The city finds that it is not technically possible or aesthetically desirable to mount the antenna on a wall.
- ii. No portion of the antenna or base station causes the height of the building to exceed the limitations set forth herein.
- iii. The antenna or antennas and related base stations cover no more than an aggregate total of 25 percent of the roof area of a building, which may vary in the city's sole discretion, if co-locating and an adequate screening structure are used.
- iv. Roof mounted antenna and related base stations are completely screened from view by materials that are consistent and compatible with the design, color, and materials of the building.
- v. No portion of the antenna may exceed 15 feet above the height of the existing building.
- i. If a proposed antenna is located on a building or a lot subject to a site review, approval is required prior to the issuance of a building permit.
- j. No antenna shall be permitted on property designated as an individual landmark or as a part of a historic district, unless such antenna has been approved in accordance with city ordinances.
- k. No personal wireless service provider or lessee or agent thereof shall fail to cooperate in good faith to accommodate co-location with competitors. If a dispute arises about the feasibility of co-locating, the city administrator may require a third party technical study, at the expense of either or both parties, to resolve the dispute.
- l. No personal wireless service provider or lessee shall fail to assure that its antenna complies at all times with the current applicable FCC standards. After installation, but prior to putting the antenna in service, each provider shall submit a certification by an independent professional engineer to that effect. In the event that an antenna is co-located with another antenna, the certification must provide assurances that FCC approved levels of electromagnetic radiation will not be exceeded by the co-location.
- m. No antenna shall cause localized interference with the reception of any other communications signals including, but not limited to, public safety, television, and radio broadcast signals.
- n. No person shall locate an antenna or tower for wireless communications services upon any lot or parcel except as provided in this chapter. (Ord. 720-00)

216.108.100 Submittal requirements. 

Application for conditional use permit, administrative use permit, building permit, and other related requests may include any combination of site plans, surveys, maps, technical reports, or written narratives necessary to convey the following information in addition to the requirements of the ~~Sultan Municipal Code and SMC Title 16, Unified Development Code, Zoning Code~~ and other applicable ordinances:

A. Photosimulations of the proposed facility from affected residential properties and public rights-of-way at varying distances;

B. A site elevation and landscaping plan indicating the specific placement of the facility on the site, the location of existing structures, trees, and other significant site features, the type and location of plant materials used to screen the facility, and the proposed colors) of the facility;

C. A signed statement indicating that:

1. The applicant and landowner agree that they will diligently negotiate in good faith to facilitate co-location of additional personal wireless service facilities by other providers on the applicant's structure or within the same site location; and

2. The applicant and/or landlord agree to remove the facility within 60 days after abandonment;

D. Copies of any environmental documents required by any federal agency. These shall include the environmental assessment required by FCC Para. 1.1307, or, in the event that an FCC environmental assessment is not required, a statement that describes the specific factors that obviate the requirement for an environmental assessment;

E. A site plan clearly indicating the location, type and height of the proposed tower and antenna, on-site land uses and zoning, adjacent land uses and zoning, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower, and any other proposed structures;

F. A current map and aerial showing the location of the proposed tower, a map showing the locations and service areas of other personal wireless service facilities operated by the applicant and those proposed by the applicant that are close enough to impact service within the city.

G. Legal description of the parcel, if applicable;

H. The approximate distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties;

I. A landscape plan showing specific landscape materials;

J. Method of fencing, finished color and, if applicable, the method of camouflage and illumination;

K. A letter signed by the applicant stating the tower will comply with all FAA regulations and EIA Standards and all other applicable federal, state, and local laws and regulations;

L. A statement by the applicant as to whether construction of the tower will accommodate co-location of additional antennas for future users;

M. Certification that the antenna usage will not interfere with other adjacent or neighboring transmission or reception functions;

N. The telecommunications company must demonstrate that it is licensed by the FCC if required to be licensed under FCC regulations;

O. The applicant, if not the telecommunications service provider, shall submit proof of lease agreements with an FCC licensed telecommunications provider if such telecommunications provider is required to be licensed by the FCC;

P. A full site plan shall be required for all sites, showing the tower, antenna, antenna support structure, building, fencing, buffering; access, and all other items required in this chapter. The site plan shall not be required if the antenna is to be mounted on an existing structure; and

Q. At the time of site selection, the applicant should demonstrate how the proposed site fits into its overall network within the city. (Ord. 720-00)

216.108.110 Permits required.

Where a tower or antenna support structure will be 60 feet or less in height, in addition to the other provisions of this chapter, an applicant will be required to obtain an administrative use permit. In the event that a proposed tower or antenna support structure will be located near a residential zone, or an unscreened tower in the urban center zone, or will be more than 60 feet in height, in addition to the other provisions of this chapter, an applicant will be required to obtain a conditional use permit; ~~Chapterper SMC216.04-SMC~~. With respect to the placement of antenna on a tower or antenna support structure, the requirements for a conditional use permit or administrative use permit will be applicable based on the height of the tower and antenna or mount and antenna unless this chapter provides other requirements to the contrary. (Ord. 720-00)

216.108.120 Inspection requirements.

Each year after a facility becomes operational, the facility operator shall conduct a safety inspection in accordance with the EIA and FCC standards and within 60 days of the inspection file a report with the city administrator/manager. Submission of a copy of FCC required, and duly filed, safety inspection report, or the facility operator's maintenance reports for the prior 12 months in the event no FCC report is required for such year, shall satisfy the requirements of this section. (Ord. 720-00)

216.108.130 Landscaping/screening.

A. Landscaping. Landscaping, as described herein, shall be required to screen personal wireless service facilities as much as possible, to soften the appearance of the cell site. The city may permit any combination of existing vegetation, topography, walls, decorative fences or other features instead of landscaping, if they achieve the same degree of screening as the required landscaping. If the antenna is mounted flush on an existing building, and other equipment is housed inside an existing structure, landscaping shall not be required.

B. Screening. The visual impacts of a personal wireless service facility shall be mitigated through landscaping or other screening materials at the base of the tower and ancillary structures. The following

landscaping and buffering shall be required around the perimeter of the tower and accessory structures, except that the city may waive the standards for those sides of the facility that are not in public view. Landscaping shall be installed on the outside of fences. Further, existing vegetation shall be preserved to the maximum extent practicable and may be used as a substitute for or as a supplement to landscaping requirements.

1. A row of evergreen trees a minimum of six feet tall at planting and a maximum of six feet apart shall be planted around the perimeter of the fence.

2. A continuous hedge at least 36 inches high at planting capable of growing to at least 48 inches in height within 18 months shall be planted in front of the tree line referenced above.

3. In the event that landscaping is not maintained at the required level, the city after giving 30 days advance written notice, may maintain or establish the landscaping and bill both the owner and lessee for such costs until such costs are paid in full. (Ord. 720-00)

216.108.140 Non-use/abandonment/obsolescence.



A. Abandonment. No less than 30 days prior to the date that a person¹ wireless service provider plans to abandon or discontinue operation of a facility, the provider must notify the city of Sultan by certified U.S. mail of the proposed date of abandonment or discontinuation of operation. In the event that a licensed carrier fails to give notice, the facility shall be considered abandoned upon the city's discovery of discontinuation of operation. Upon such abandonment, the provider shall have 60 days or additional period of time determined in the reasonable discretion of the city within which to:

1. Reactivate the use of the facility or transfer the facility to another provider who makes actual use of the facility; or

2. In the event that abandonment as defined in this chapter occurs due to relocation of an antenna at a tower point on the antenna support structure, reduction in the effective radiated power of the antenna or reduction in the number of transmissions from the antennas, the operator of the tower shall have six months from the date of effective abandonment to co-locate another service on the tower. If another service provider is not added to the tower, then the operator shall promptly dismantle and remove that portion of the tower which exceeds the minimum height required to function satisfactorily.

Notwithstanding the foregoing, changes which are made to personal wireless facilities which do not diminish their essential role in providing a total system shall not constitute abandonment. However, in the event that there is a physical reduction in height of substantially all of the provider's towers in the city or surrounding area then all of the towers within the city shall similarly be reduced in height.

3. Dismantle and remove facility. If the tower, antenna, foundation, and facility are not removed within the 60-day time period or additional period of time allowed by the city (in writing), the city may remove such tower, antenna, foundation, and related facility at the provider's expense. If there are two or more providers co-locating on a facility, except as provided for in the paragraph above, this provision shall not become effective until all providers cease using the facility. At the earlier of 60 days from the date of

abandonment without reactivating or upon completion of dismantling and removal, city approval for the facility shall automatically expire. (Ord. 720-00)

216.108.150 Violation – Penalty. 

A. Any person violating any of the provisions of this chapter upon conviction shall be punishable by a fine not to exceed \$1,000 or by imprisonment for a period of up to 90 days, or by both such fine and imprisonment, for each day during which an offense occurs.

B. In addition to receiving any monetary remuneration, the city shall have the right to seek injunctive relief for any and all violations of this chapter and all other remedies provided at law or in equity. (Ord. 720-00)

Division VI. Administration

Chapter 16.120
ADMINISTRATION

Sections:

[16.120.010](#) ~~Repealed. Purpose.~~

~~[16.120.020](#) Repealed.~~

[16.120.0205](#) Development permits required.

[16.120.030](#) Permits, terms, and conditions.

[16.120.040](#) When permit is not required or may be waived.

~~[16.120.050](#) Repealed.~~

[16.120.0560](#) Application for development permits.

[16.120.0670](#) Regulations.

[16.120.0780](#) Criteria for approval of an application and issuance of a permit.

[16.120.0890](#) Occupancy permit.

[16.120.1090](#) Appeals of development permit decisions, enforcement and abatement proceedings, appeals of notices and orders to correct and/or abate.

[16.120.1010](#) Calculation of time – Delivery – Notice to parties – Filing with the ~~hearing~~ ~~examiner~~ ~~Board of Adjustment.~~

[16.120.010](#) ~~Continuation of planning commission.~~ Purpose. 

~~Repealed by Ord. 904-06. (Ord. 630 § 2[16.08.010(1)], 1995)~~

~~It is the purpose of this chapter to establish administration procedures for land use decisions in the City of Sultan. The administration of the Zoning Code will be done by the planning staff under the direction of the planning director.~~

~~[16.120.020](#) Planning commission – Powers and duties.~~ 

~~Repealed by Ord. 904-06. (Ord. 630 § 2[16.08.010(2)], 1995)~~

[16.120.0205](#) Development permits required. 

To implement the purpose and scope of ~~this title~~ the Zoning Code, as described in ~~Chapter 16.01~~ SMC Title 16, development as defined and regulated by this title is required to ~~apply for and receive a~~

~~development permit be in conformance with the City of Sultan Comprehensive Plan and Zoning Code under the provisions of this chapter. Development required to receive a A~~ development permit ~~must be approved by the City of Sultan and its designated agents~~ prior to any ~~development processes~~ physical alterations to any site specific piece of property include ~~ing~~, but are not limited to, the following ~~development actions~~:

- A. ~~A-~~ Grading/Filling. Modification of land and landscape where grading and/or filling of more than 50 cubic yards of material is moved, whether from one parcel/ownership to another or within the same parcel/ownership. (Ord. 1158-12 § 1)
- B. ~~Clearing of vegetation protected under SMC Title 17.~~
- C. ~~Constructing any building or other improvement that is not specifically exempt from requiring a building, fence, or other construction permit.~~

16.120.030 Permits, terms, and conditions.



A. **Development Permit.** Any development permit that is issued shall be subject to the terms and conditions imposed by the ~~community development planning~~ director to ensure that such development will be in accordance with the provisions of ~~this unified development~~ the City of Sultan Comprehensive Plan, Zoning Code, and Subdivision Code.

B. Reapplication. If an application for a permit under the Zoning Code is denied, the applicant may not submit another such application for development of the same property sooner than 120 calendar days after the date of such denial.

C. Permit Commencement and Expiration. Any development approved pursuant to ~~this the Zoning Code~~ shall be commenced, performed, and completed in compliance with the provisions and conditions of the permits for such development stipulated by the ~~community development planning~~ director, hearing examiner, or city council.

Any development approved by a permit under the Zoning Code shall be commenced within 36 months from the date such permit is issued. Failure to complete substantial development within such period shall cause the permit to lapse and render it null and void. No extensions shall be granted. For purposes of this section, a permit shall be considered issued on the date it is signed by the ~~community development planning~~ director or hearing examiner.

D. Evidence of Ownership or Legal Interest. Upon filing an application, the applicant shall be required to show evidence in writing of his or her legal interest in and the right to perform development upon all property on which work would be performed if the application is approved, including submission of all relevant legal documents. Where the applicant is not the owner of the property, the owner must co-sign the application before it will be accepted for filing. The applicant shall have the burden of demonstrating to the satisfaction of the ~~community development planning~~ director the current validity of the legal interest upon which he or she bases any part of the application before such application can be deemed to be complete. (Ord. 1057-09 § 1; Ord. 1051-09 § 1; Ord. 630 § 2 [16.08.020(2)], 1995)

16.120.040 When permit is not required or may be waived. 

A. Notwithstanding any provision in ~~this unified development~~ the Zoning Code to the contrary, no minor development permit shall be required pursuant to ~~this the Zoning Code~~ for activities related to the repair or maintenance of an object or facility, where such activities shall not result in an addition to or enlargement or expansion of such object or facility. However, this does not preclude the requirement for a building permit or other development permit for such activity.

B. Where immediate action by a person is required to protect life and public property from imminent danger, or to restore, repair, or maintain public works, utilities, or services destroyed, damaged, or interrupted by natural disaster or serious accident, or in other cases of emergency, the requirement of obtaining a development permit prior to initiating such action under this section may be waived by the ~~community development planning~~ director or other authorized City official. The applicant shall notify the ~~community development planning~~ director in writing of the type and location of the work, the length of time necessary to complete the work, and the name of the person or public agency conducting the work. This shall be done within 30 days following the disaster, accident, or other emergency. However, this shall not preclude the requirement for building permits or other development permits for such activity. (Ord. 1057-09 § 1; Ord. 1051-09 § 1; Ord. 630 § 2[16.08.020(3)], 1995)

~~16.120.050~~ ~~Development permit approval process.~~ 

~~Repealed by Ord. 1051-09. (Ord. 770-01 § 6; Ord. 715-00; Ord. 630 § 2[16.08.020(4), (5)], 1995)~~

16.120.0560 Application for development permits. 

All applications for development permits under the Zoning Code shall contain at least the following information; provided, however, that the applicant may request a waiver of any of the following requirements. Unless the applicant can prove to the satisfaction of the ~~community development director's office~~ planning staff that a waiver is appropriate, he or she shall supply the following information:

A. ~~Ten~~Four copies of a site plan, one of which shall be a mylar reproducible of the property to a scale of 100 feet to one inch, prepared by a registered engineer, architect or land surveyor illustrating the proposed development of the property and including, but not limited to, the following:

1. Topographical features showing present grades and any proposed grades if present grades are to be altered. Unless otherwise required by the ~~community development planning~~ director or public works director, contours at an interval not greater than five feet shall be shown;
2. Property boundary lines and dimensions including any platted lot lines within the subject property of the development permit;
3. Location and dimensions of all existing and proposed buildings, including height in stories and feet and including total square feet of ground area coverage;

4. Location and dimensions of all existing and proposed driveways and entrances, minimum yard dimensions, and where relevant, relation of yard dimensions to the height of any side of any building or structure;

5. Location and dimensions of parking stalls, access aisles, and total area of lot coverage of all parking areas and driveways;

6. Location and dimension, including height clearance, of all off-street loading areas;

7. Location, designation and total area of all usable open space, including use of any paved areas as distinguished from grass, sodded, or other landscaped areas;

8. Location and height of fences, walls (including retaining walls), or screen planting, and the type or kind of building materials or planting proposed to be used;

9. Proposed surface stormwater drainage treatment facilities;

10. Location of easements or other rights-of-way; and

11. Location and designation of any open storage space.

B. ~~Ten~~Four copies of a location map at a scale of 200 feet to one inch showing, at a minimum, the uses of all property within 200 feet of the subject property, including the following:

1. All streets, alleys or other public rights-of-way, public parks and places and all lots and lot lines, drainage ways, waterways, and easements;

2. All structures and the principal use of each structure, including the type of residential, commercial, or industrial use; and

3. All off-street parking and loading areas as may be significant to the application in question.

C. Any other information as may be required by the community development planning director to determine that the application is in compliance with ~~this unified development~~ the Zoning Code shall be furnished, including but not limited to wetlands, aquifer or groundwater recharge zones, floodplains, elevations, profiles, perspectives, sign placement, vegetation, landscaping, or any other material necessary for a complete understanding of the application.

D. A statement in writing signed by the applicant stating that the information as shown on the plans, maps, and application is true and correct. Any failure to comply with the provisions of this section shall be good cause to deny the application and/or to revoke any permit which may have been issued for any building or use of land. (Ord. 1057-09 § 1; Ord. 1051-09 § 1; Ord. 630 § 2[16.08.020(7)], 1995)

16.120.070 Regulations. 

The community development planning director shall, in the manner required by law and after public hearings, adopt such rules and regulations pertaining to the issuance of permits as it deems necessary.

The ~~community development planning~~ director may thereafter, in the manner required by law, and from time to time, after public hearings, modify or adopt additional rules and regulations as deemed necessary to carry out the provisions of ~~this unified development the Zoning Ceode~~; provided, any such rules and regulations issued pursuant to this code may be amended or repealed by the city council in accordance with the appropriate provisions of the Sultan Municipal Code. Such regulations shall include but are not limited to the following:

A. Procedures for the submission, review and approval or denial of permit applications, and the form of application for permits. The ~~community development planning~~ director shall devise a temporary application form that shall be used upon enactment of ~~this unified development the Zoning Ceode~~ until such time as rules and regulations are adopted;

B. Information to be required in the application, including, without limitation, proof of legal interest in the property, authority to sign the application, drawings, maps, data, and charts concerning land and uses and areas in the vicinity of the proposed development, and appropriate supplementary data reasonably required to describe and evaluate the proposed development and to determine whether the proposed development complies with statutory criteria under which it might be approved;

C. The payment of reasonable application, processing, permit and other fees necessary for the proper administration of the permitting process;

D. Standards, in addition to those set out in this code, for determining whether a project requires a major project permit;

E. Requirements for the conduct and continuance of public hearings and the methods of providing public notice on major project permits. A public notice shall, at a minimum, state the nature and location of the proposed development, the time and place of the public hearing, the date of the public hearing (which shall be, in any event, at least 10 working days following the date that the hearing was first advertised), and shall be advertised in a newspaper of general circulation, and, in addition, be given to the applicant, any person who requests such notification in writing, any person who the ~~community development planning~~ director determines would be affected by or interested in such development, and the owner(s) of any/all lot(s) within 500 feet of the site of the proposed development. Additionally, a sign shall be posted on the property at least 10 working days prior to the date of the public hearing by the ~~community development planning~~ director at a location that can be easily seen by the general public indicating the date, time, and location of the public hearing and the purpose for which the hearing is being held;

F. Contents of permits;

G. Notifications of decisions on applications;

H. Notices of completion and certificates of acknowledgment of compliance;

I. Modification and revocation of permits; and

J. Transfer or assignment of permits. (Ord. 1057-09 § 1; Ord. 1051-09 § 1; Ord. 630 § 2[16.08.020(8)], 1995)

16.120.080 Criteria for approval of an application and issuance of a permit. 

A. A ~~land-use~~ development permit under the Zoning Code shall be granted by the ~~community development-planning~~ director or the hearing examiner; provided, ~~that it is found,~~ based upon substantial evidence in the record, it is found that the development complies with each of the following criteria:

1. The development is consistent with the goals, policies, requirements, and performance standards of this unified development code and other applicable laws and regulations;
2. The development project as proposed incorporates, to the maximum extent feasible, mitigation measures to substantially lessen or eliminate all adverse environmental impacts of the development; and
3. The applicant has presented certification that the applicant has filed and paid all taxes, penalties and interest, and that the applicant has satisfactorily made agreement to pay the taxes.

B. The issuance of a land use development permit shall also require that the applicant agree in writing to:

1. Comply and perform to all conditions of approval; and
2. Carry out minimum improvements in accordance with the provisions of this unified development code and all standards of this title.

C. Improvement Guarantees. Contemporaneous with the issuance of a permit, or upon approval of a plat, subdivision or other approval to divide land, to ensure the applicant's compliance with subsection (B) of this section and to guarantee future compliance and performance, the applicant shall:

1. Comply with all conditions of approval and carry out all minimum improvements as required by the city engineer;
2. If acceptable or required by the city engineer, furnish the city with a bond or other security sufficient to secure the estimated cost of construction and installation of all required road and other improvements to the satisfaction of the city engineer and/or council and compliance with the conditions of approval. The amount and time limitation of any bond or other device shall be determined by the council within 30 days of permit issuance or approval. The principal shall complete construction and installation of all improvements and comply with all conditions of approval by the date stated in the security, and in the event that such does not occur, the full amount of the security shall be forfeited to the city. The council may forfeit all or any portion of the security before its expiration date, if the applicant is not making reasonable efforts to complete the work within the term of the security;

3. Furnish a maintenance bond or other security satisfactory to the council securing to the city the successful operation of the improvements and any mitigation as required by the conditions of approval for an appropriate period of time up to two years after completion of improvements, or final plat approval, as the case may be. Upon expiration of the stated period and successful performance of the improvements and mitigation, this maintenance bond shall be released and exonerated.

D. Surety Requirement. Any bond as provided herein shall be assured by two or more sureties acceptable to the city engineer or with a surety company as surety. The city is empowered to enforce such bonds by all appropriate legal and equitable remedies. (Ord. 1057-09 § 1; Ord. 1051-09 § 1; Ord. 779-02; Ord. 630 § 2[16.08.030], 1995)

16.120.090 Occupancy permit.

A. No land area shall be occupied or used and no building hereafter erected or altered shall be occupied or used in whole or in part for any purpose whatsoever until an occupancy permit has been issued by the community development planning director or his/her designee, stating that the premises, building, or other development complies with all provisions of this code; except that in the case of an alteration that does not require vacating the premises or where parts of the premises are finished and ready for occupancy before the completion of the alteration, or in the case of a new structure, before its completion, a conditional occupancy permit may be issued.

B. No change or extension of use or no alteration shall be made in a nonconforming use of a building or land or water area without a building permit having first been issued by the community development planning director or his/her designee that such change, extension or alteration is in conformity with the provisions of this code.

C. As-Built Plan Submittals. After completion of all required improvements and prior to final acceptance of said improvements, the subdivider shall submit:

1. To the city as-built drawings reflecting any changes to previously approved construction drawings. No changes in improvements may be made without prior approval of the city council;
2. To the utility superintendent and fire department, two copies of the plat and drawings showing the actual location of all mains, hydrants, valves and other fire improvements;
3. A statement sworn to by the subdivider and his registered engineer that the drawings show the actual location of the improvements required to be shown therein. No occupancy permit shall be issued until any and all required as-built plans have been submitted and approved by the director of community development.

D. Within 10 days from the date that an applicant requests, in writing, that an occupancy permit be issued on his/her development project, the community development planning director shall render a decision as to whether or not said occupancy permit is to be issued. If the decision is not to issue the occupancy permit, the community development planning director shall so notify the applicant including the reasons for denial of the permit. If no occupancy permit has been issued within 10 working days of

the written request thereof and the ~~community-development-planning~~ director has not informed the applicant of approval or denial in writing, it shall be deemed that the ~~community-development-planning~~ director approves the request and the applicant may legally occupy the premises. (Ord. 1057-09 § 1; Ord. 1051-09 § 1; Ord. 630 § 2[16.08.040], 1995)

16.120.100 Appeals of development permit decisions, enforcement and abatement proceedings, appeals of notices and orders to correct and/or abate. 

Notwithstanding any provision of ~~this-unified-development-the Zoning Ceode~~ to the contrary, any aggrieved person may file an appeal of a decision or action by the ~~community-development-director planning staff~~ taken pursuant to ~~this-the Zoning Ceode~~ within 10 calendar days thereof with the ~~hearing examiner-Board of Adjustment~~ and such appeal shall be governed solely by the provisions of this section.

A. Procedure on Appeal. The ~~hearing-examiner-Board of Adjustment~~, after having been duly notified that an appeal has been filed, shall ~~authorize-be scheduled for a public hearing, and~~ the city to give public notice of a public hearing on the appeal in a newspaper of general circulation. Such public notice shall be in the same form and shall have the same filing date requirements as prescribed in Chapter 16.124 SMC. The city shall also serve persons notice of such hearing who own property within 300 feet of the subject property, the applicant for the development permit, the aggrieved person (if different than the applicant), any person who has requested in writing to be notified of such public hearing date, the ~~community-development-planning~~ director and the ~~planning-Bboard of Adjustment~~.

B. Effect of Filing on Appeal. The filing of a notice of appeal shall stay any proceedings in furtherance of the action appealed, unless the ~~community-development-planning~~ director certifies in writing to the ~~hearing-examiner-the Board of Adjustment~~ and the applicant that a stay poses an imminent peril to life or property, in which case the stay shall not stay further proceedings. The ~~hearing-examiner-Board of Adjustment~~ may review such certification and grant or deny a stay of the proceedings.

C. Public Hearing. A public hearing on an appeal shall be held by the ~~hearing-examiner-Board of Adjustment~~ within 20-35 working days after the appeal is filed with ~~the-examiner-city~~, and an action shall be taken by the ~~hearing-examiner-Board of Adjustment~~ within 15 working days after the conclusion of such public hearing. The ~~hearing-examiner-Board of Adjustment~~ may reverse, affirm or modify the decision, determination or interpretation appealed and, in so modifying, shall be deemed to have all of the powers of the ~~community-development-planning~~ director, from whichever the appeal is taken, including the power to impose reasonable conditions to be complied with by the applicant. The ~~hearing examiner-Board of Adjustment~~ shall notify the ~~community-development-planning~~ director, the applicant for the permit, and the person or persons who filed the appeal of its decision by certified mail. Such notice shall be sent within five working days of the ~~hearing-examiner's-Board of Adjustment~~ action.

D. Rights of Parties. Consistent with rules adopted by the ~~hearing-examiner-city for the Board of Adjustment~~, appeal hearings before the ~~hearing-examiner-Board of Adjustment~~ shall allow the parties to:

1. Call and examine witnesses on any matter relevant to the issues of the hearing;
2. Introduce documentary and physical evidence;
3. Impeach any witness regardless of which party first called them to testify;
4. Rebut evidence against them;
5. Represent themselves or be represented by anyone of their choice who is lawfully permitted to serve in such capacity. (Ord. 1057-09 § 1; Ord. 1051-09 § 1; Ord. 769-01 §§ 1, 2, 3; Ord. 630 § 2[16.08.050], 1995)

16.120.110 Calculation of time – Delivery – Notice to parties – Filing with the ~~hearing examiner~~Board of Adjustment and the city. 

A. Whenever this title states that an action or notice must be given in a certain number of calendar days, if the last calendar day for the action or notice is a weekend day or a federally recognized holiday, then the last calendar day shall be construed to include the first working day after the weekend or holiday; and the deadline shall be 5:00 p.m. current local time of that first working day.

B. Whenever this title states that an action or notice must be given “within” a period of time from a decision, action or notice, the first calendar day for the counting of the calendar days shall be as follows:

1. If the number of days involved is less than 15 calendar days, the first day shall be:

a. If the notice or decision is personally served on the party, then the day after service; and

b. If the notice or decision is mailed, then the third day after the date the notice or decision is deposited into the United States mail properly addressed with required postage;

2. If the number of days involved is 15 calendar days or more, the first day shall be:

a. If the notice or decision is personally served on the party, the day after service; and

b. If the notice or decision is mailed, then the day after the notice or decision is deposited into the United States mail properly addressed with required postage.

C. Each decision or notice shall contain a statement concerning rights to contest or appeal the decision or notice and among other information the statement shall state the date of the notice or decision; the date the appeal, contest or appeal period is expected to begin; the last date and time to file an appeal or notice when the party to whom the notice must go is open for business; and the location to file an appeal or notice.

D. In the event the statement specified in subsection (C) of this section contains an error, the party relying on the statement shall be entitled to the longer time. Therefore, if the “last date” in the statement is earlier than the time as calculated under this section, the party shall be entitled to the time provided by this section. But if the “last date” in the statement is later than the date that would be

calculated under this section, the party shall be entitled to, and the actual time shall be extended to, the date and time set out in the statement; provided, however, that if the error is in the statement of the year, the correct year shall apply.

E. Whenever this title states that something must be filed with the ~~hearing examiner~~Board of Adjustment, filing shall be accomplished by filing with the clerk/treasurer of the city. The date of filing shall be the date of actual delivery to, or receipt of mail by, the city clerk/treasurer. (Ord. 1057-09 § 1; Ord. 1051-09 § 1; Ord. 790-02)

Chapter 16.128 AMENDMENTS

Sections:

[16.128.010 Scope of amendments.](#)

[16.128.020 Initiation of amendments.](#)

[16.128.030 Authority of the city council to amend the ~~unified development~~ Zoning Ceode.](#)

[16.128.040 Reconsideration of application denied by the city council.](#)

16.128.010 Scope of amendments.

Any provision of ~~this unified development~~ the Zoning Ceode, as well as the boundaries of the various zoning districts established herein, may be amended by the city council, after due public notice and hearing, where parties in interest and citizens shall have an opportunity to be heard, subject to the provisions of this chapter. (Ord. 630 § 2[16.11.010], 1995)

16.128.020 Initiation of amendments.

Amendments to ~~this unified development~~ the Zoning Ceode, including zoning maps, may be initiated by petition of any property owner, the building and zoning official, planning ~~commission~~ board, or by the city council. (Ord. 630 § 2[16.11.020], 1995)

16.128.030 Authority of the city council to amend the unified development code.

A. Every proposed amendment to the ~~unified development~~ Zoning Ceode, including changes in the zoning district maps or boundaries, shall be referred to the city council.

B. The city council shall schedule a public hearing no later than 60 calendar days from the date it is officially notified of a request for an amendment to ~~this unified development~~ the Zoning Ceode.

C. Upon submission of a petition for a ~~unified development~~ Zoning Ceode amendment, the city council shall give due public notice and conduct a public hearing, wherein the parties in interest and citizens shall have the opportunity to be heard, under the requirements contained in ~~this unified development~~ the Zoning Ceode in ~~SMC Chapter~~ 16.124 SMC.

D. If the ~~unified development~~ Zoning Ceode amendment request is one that would call for a revision to the zoning map(s), the city council shall first examine the adopted 20-year land use plan to determine if the request is consistent with the long-range land use plan for the city of Sultan.

E. Additionally, the city council shall contact, in writing, and receive, in writing, statements from the relevant city of Sultan departments and authorities to inform them as to the availability and capacity of the roadway, water, sewer, and electrical power systems to accommodate the level of development that could occur if the ~~unified development~~ Zoning Ceode amendment were to be granted. If statements

are not available at the time of the public hearing, those city departments shall have an opportunity to make oral statements at said hearing. If no statement, written or oral, is given by any city department, it shall be assumed that they concur with the requested amendment.

F. Having taken into account the conditions and requirements set forth in subsections (C) and (D) of this section, the city of Sultan shall render a decision on the zoning amendment request.

G. If a request to amend the ~~unified development Zoning Ce~~code is made to the city council that goes beyond what is shown on the adopted 20-year land use plan (e.g., the land is currently shown as being in the LMD zoning district, the land use plan shows the area ultimately being designated in the MD zoning district, but the applicant is requesting that his property be rezoned to the HD zoning district), the city council shall refer the matter to the planning ~~commission board to~~ for review and recommendation to the City Council ~~concurrency requirements~~. (Ord. 630 § 2[16.11.030], 1995)

16.128.040 Reconsideration of application denied by the city council. 

Whenever the city council, after hearing all the evidence presented upon any application under the provisions of ~~this unified development the Zoning Ce~~code, denies same, they shall not hold further hearings on a renewal application for the same matter by the same applicant or applicants, their successors or assigns, for a period of one year from and after denial thereof, except and unless they shall find and determine from the information supplied by a request for a rehearing, that changed conditions have occurred relating to the application and that a reconsideration is justified. If the rehearing is denied, the application shall not be reopened for at least one year from the date of the original action. (Ord. 630 § 2[16.11.040], 1995)

Chapter ~~176.176~~

VEGETATION PROTECTION STANDARDS

Sections:

[176.176.010 Purpose.](#)

[176.176.020 Applicability of vegetation protection regulations.](#)

[176.176.030 Land clearing/vegetation protection and preservation.](#)

[176.176.040 Site design standards.](#)

[176.76.010 Purpose.](#) 

It is the purpose of this chapter of the ~~unified development code~~ [Title 17](#) to promote the health, safety, and welfare of existing and future residents and visitors by establishing minimum standards for the protection of natural plant communities, and the installation and continued maintenance of landscaping, for the following reasons:

A. Water Conservation. Promote the conservation of potable and nonpotable water by encouraging the preservation of existing plant communities, encouraging the planting of natural or uncultivated areas, encouraging the use of native plant materials, and establishing techniques for the installation and maintenance of landscape materials and irrigation systems.

B. Aesthetics. Improve the aesthetic appearance of commercial, industrial, and residential areas through the incorporation of open space into development in ways that harmonize and enhance the natural and built environments.

C. Environmental Quality. Improve environmental quality by recognizing the numerous beneficial effects of landscaping upon the environment, including:

1. Improving air and water quality through such natural processes as photosynthesis and mineral intake;
2. Maintaining permeable land areas essential to surface water management and aquifer recharge;
3. Reducing and reversing air, noise, heat, and chemical pollution through the biological filtering capabilities of trees and other vegetation;
4. Promoting energy conservation through the creation of shade, thereby reducing heat gain in or on buildings or paved areas;
5. Encouraging the conservation of limited fresh water resources through the use of native plants and various planting and maintenance techniques.

D. Land Values. Maintain and increase the value of land by requiring a minimum amount of landscaping to be incorporated into development.

E. Human Value. Provide direct and important physical and psychological benefits to the residents of Sultan through the use of landscaping to reduce noise and glare, and to break up the monotony and soften the harsher aspects of urban development.

F. Preservation of Vegetation. Preserve existing natural vegetation and incorporate native plants, plant communities, and natural ecosystems into landscape design, wherever possible.

G. Improve Design. Promote innovative and cost-conscious approaches to the design, installation, and maintenance of landscaping, and encouraging water and energy conservation. (Ord. 630 § 2 [16.10.070(1)], 1995)

176.176.020 Applicability of vegetation protection regulations. 

These standards shall apply to any new ~~property~~ development or to the expansion of existing development on land in the City of Sultan. Seasonal parking facilities shall be exempt. Single-family detached homes ~~or duplexes~~ proposed to be built on their own individual lots shall be exempt as noted. The building and zoning official shall not issue a permit provided for herein in violation of these standards. (Ord. 765-01 § 11; Ord. 630 § 2 [16.10.070(2)], 1995)

176.176.030 Land clearing/vegetation protection and preservation. 

A. General.

1. Objectives of these Standards. The objectives of these standards in limiting land clearing are:

a. To control the use of irrigation water in open space areas by promoting the preservation of existing native plant communities.

b. To control the removal of existing vegetation in advance of the approval of land development plans.

c. To limit the removal of existing vegetation when no comparable vegetation plan to that required under this section has been prepared for the site.

2. Preservation of Existing Native Vegetation. Existing native vegetation and plant communities shall be protected and incorporated into the site plan wherever feasible. Certain natural plant communities shall be given special protection as determined by the ~~planning commission-city~~ and shall be protected and preserved as total entities, including understories.

3. Vegetation Removal Permits and Fees. Permits for the removal, relocation, or replacement of vegetation covered herein shall be obtained by submitting an application on a form prescribed by the building and zoning official.

B. Application Procedure for a Vegetation Removal Permit within Proposed Development for which a Separate Building Permit or Preliminary Plan Approval is Requested.

1. Preliminary Review. As a precondition to the filing or receiving of any application for a building permit (except for a single-family detached dwelling unit on its own lot and not part of an overall subdivision for which approval is being sought), the applicant shall make application for a vegetation removal permit and obtain a preliminary approval from the building and zoning official.

2. Required Generalized Vegetation Inventory. Each application for a vegetation removal permit shall be accompanied by a generalized vegetation inventory which shall consist of:

a. Generalized Vegetation Inventory. A generalized vegetation inventory showing the approximate location and extent of vegetation on the site. The inventory shall be based on the most current available information. For nonresidential and multifamily development (i.e., attached housing, apartments, condominiums, planned unit developments, etc.), the inventory may be in the form of a field survey and shall include photographs illustrating typical areas of existing vegetation. The generalized vegetation inventory shall be prepared at the same scale as the proposed site development plans to clearly illustrate the relationships between the areas of existing vegetation and proposed site improvements.

b. Generalized Written Assessment and Evaluation. The generalized vegetation inventory shall be accompanied by a brief written assessment of the plant communities that have been identified on the site. For all nonresidential and multi-family **development** projects, the assessment and evaluation shall be prepared by a person knowledgeable in the identification and evaluation of vegetative resources, such as a biologist, ecologist, horticulturist, landscape architect, landscape contractor, certified nurseryman, or other person having similar recognized skills and/or experience.

3. Preliminary Approval.

a. Issuance for Lots with Minimal Vegetation Disruption. Where the building and zoning official has verified that significant vegetative removal activity is not involved in a proposed development, a preliminary approval certificate shall be issued forthwith.

b. Issuance for Lots with Significant Vegetation Disruption. A decision to grant or deny a preliminary approval certificate shall be made by the building and zoning official within 130 working days of ~~the a complete application being filed with the city applicant's submission~~. Preliminary approval for an applicant involving significant vegetation removal activity shall be granted only if the building and zoning official finds that all reasonable efforts have been undertaken in the layout and design of the proposed development to preserve existing vegetation and to otherwise enhance the aesthetic appearance of the development by the incorporation of existing vegetation in the design process. Relocation or replacement of existing vegetation may be required as a condition of the issuance of a preliminary approval certificate.

4. Certification of Substantial Compliance. Prior to the issuance of any development permit upon property which has received a preliminary approval certificate, the building and zoning official shall certify that the final construction plans substantially comply with the preliminary plans as they affect existing vegetation. Any proposed substantial deviation from the preliminary site plan as it affects

existing vegetation shall be subject to a new review according to the same criteria and procedures as the original preliminary review.

5. Time Limitation. A vegetation removal permit shall be subject to the same time limitation rules as are applicable to its accompanying development permit.

6. Final Inspection. No final occupancy permit shall be issued until the relocation or replacement of vegetation, as required by the vegetation removal permit, has been completed and final approval has been given by the building and zoning official.

C. Application Procedure for Vegetation Removal Unrelated to Development Permit Applications.

1. Applicability. Vegetation removal permits, not sought in conjunction with building permits, shall be obtained by making application to the building and zoning official prior to the removal, replacement, or relocation of vegetation from or on the following types of property:

a. All vacant or undeveloped sites; ~~or~~

b. All lands located ~~in the LMD zoning district~~ public property, including rights-of-way and easements;
and

c. All lands located in dedicated open space tracts, critical areas and critical area buffers, and natural hazard areas.~~and~~

~~e. Existing residential development in which~~ landscape plant materials that are to be planted or rearranged for existing residential development on the same lot shall be exempt from these provisions.

2. Required Generalized Vegetation Inventory. Each application for a vegetation removal permit shall be accompanied by a generalized vegetation inventory which shall consist of:

a. Generalized Vegetation Inventory. A generalized vegetation inventory (including a map of the property) showing the approximate location and extent of vegetation on the site shall be prepared. For existing nonresidential and multifamily development, the inventory may be in the form of a field survey, and shall be accompanied by photographs illustrating typical areas of vegetation. This inventory shall be prepared at a scale that clearly illustrates the relationships between the areas of vegetation and the existing site improvements.

b. Generalized Written Assessment and Evaluation. The generalized vegetation inventory shall be accompanied by a brief written assessment of the plant communities that have been identified on the site. The assessment shall include an evaluation of the character and quality of the plant communities identified, including their rarity, viability, and such other physical characteristics and factors which may affect their preservation. For projects other than single-family detached residences, on individual lots and not part of an overall subdivision for which approval is being sought, the assessment and evaluation shall be prepared by an individual knowledgeable in the identification and evaluation of vegetative

resources, including but not limited to a biologist, ecologist, horticulturist, landscape architect, nurseryman or landscape contractor.

3. Application Review. Upon receipt of a proper application, the building and zoning official shall perform a review, which may include a site inspection, and ~~forward a recommendation to the planning commission. The planning commission~~ shall render a decision on the application within 130 working days of ~~its receipt of a complete application being filed with the city.~~

4. Circumstances Justifying Issuance. Vegetation removal permits shall be issued in the following circumstances:

a. Where a tree, due to natural circumstances, is no longer viable, is in danger of falling, is so close to existing structures or public rights-of-way as to endanger said structures, creates unsafe vision clearances, or constitutes a ~~health~~ safety hazard; or

b. Where the affected vegetation will be ~~relocated,~~ replaced with an acceptable substitute planting, relocated, or otherwise preserved.

5. Relocation and Replacement. As a condition to the granting of a vegetation removal permit under subsection (C)(4) of this section, the applicant may ~~be required~~ choose to either:

a. Relocate vegetation, which would otherwise be destroyed, to another location on the site; or

b. Replace vegetation, which would be destroyed, with acceptable substitutes elsewhere on the site.

In determining the most suitable location, replacement, or root-pruning of vegetation, the building and zoning official shall consider the needs of the intended use of the property (if no immediate use is planned by the applicant, the zoning district's permitted uses shall be used), together with an evaluation of the following:

i. Existing vegetation cover on the site and on adjacent properties;

ii. Quantity of vegetation to be removed from the entire site;

iii. The type, size, and condition of the vegetation proposed to be removed;

iv. The feasibility of relocating the particular vegetation in question; and

v. Topography and stormwater drainage patterns on the site.

6. Time Limitation. Permits shall expire and become null and void if work authorized by such permits is not commenced within 90 calendar days from the date of issuance of the permit, or if such work, when commenced, is suspended or abandoned at any time for a period of 90 calendar days. If work has commenced and the permit becomes null and void or expires, a new permit covering the proposed vegetation removal shall be required prior to the initiation of any vegetation removal activity.

D. Vegetation Protection.

1. **General.** During construction, all reasonable steps necessary to prevent the destruction or damage of vegetation shall be taken. Damaged or destroyed vegetation must be replaced by vegetation having similar landscape architectural benefits (i.e, shade cover, height, coverage, watering requirements, etc.), as specified by the building and zoning official, prior to occupancy or use, unless approval for their removal has been granted under permit.

2. **Endangered or Threatened Species or Native Vegetation in Erosion Control Areas.** Under no circumstances, including single-family homes on their own lot, shall there be any removal of any endangered or threatened species, nor shall any native vegetation be removed from any erosion control areas.

3. **Filling, Construction Debris, and Construction Equipment.** During construction, unless otherwise authorized by the vegetation removal permit, no excess soil, additional fill, equipment, or construction debris shall be placed within the drip line (root zone protection area) of any vegetation that is required to be preserved in its present state. Additionally, no construction equipment shall be allowed within any root zone protection area.

4. **Attachments.** No attachments or wires, other than those of a protective or nondamaging nature, shall be attached to any vegetation during construction. (Ord. 630 § 2[16.10.070(3)], 1995)

16.76.040 Site design standards.

A. **Creative Site Development Concepts for Water Conservation.** Creative site development concepts shall be used to promote water conservation. Water needs may be reduced by providing for:

1. The preservation of existing plant communities;
2. The re-establishment of native plant communities;
3. Limited amounts of lawn grass areas;
4. The use of native plant materials;
5. The use of shade trees to reduce transpiration rates of lower story plant materials;
6. Site development that retains stormwater runoff on the site;
7. The use of pervious paving materials; and
8. Other environmentally sensitive site development concepts.

B. **Minimum Open Space Requirements.** Minimum open space requirements for any proposed use shall meet the standards set forth for that particular use in this unified development code for the zoning district in which the use is to be located.

C. **Preservation of Existing Plant Communities.**

1. **General.** All existing plant communities shall be preserved to the extent that they can be incorporated into the required open space. Existing plant communities that are specified on the approved landscape plans to remain shall be preserved in their entirety. In most cases, the preservation of existing plant communities will decrease the cost of initial site development, decrease future water and maintenance needs, and benefit the aesthetic appearance of the property.

2. **Existing Native Plant Communities Required to Remain.** Where existing viable, healthy native plant communities exist on a site proposed for development, at least 25 percent of the required open space shall be in the form of preserved natural plant communities.

3. **Open Space Credit for the Preservation of Existing Natural Plant Communities.** Portions of existing, viable, healthy native plant communities (the determination to be made by the building and zoning official), over and above the minimum required to be preserved, that are preserved in a natural state, and are capable of sustaining life with adjoining site development, or the proposed installation of native plant species, shall be credited as open space at one and one-half times the actual area of the protected plant community. The minimum size of a preserved plant community eligible for the open space credit shall be 4,000 square feet.

4. **Required Management Plan.**

a. **General.** For all areas of preserved plant communities greater than 10,000 square feet in area, the owner shall submit for the approval of the planning commission, a narrative management plan, indicating the manner in which the owner will preserve these native plant communities. The narrative shall include:

i. Whether or not the existing vegetation is to be preserved in the existing species composition;

ii. If applicable, the manner in which the composition of existing plant material is to be preserved (hand removal of invasion species, prescribed burning, etc.);

iii. The schedule for the removal of exotic nuisance species;

iv. The schedule for the removal of debris; and

v. Any other information that may be required by the planning commission that is reasonable and necessary to determine that the management plan meets the requirements of these standards.

b. **Requirement for Owner's Covenant with the City of Sultan for the Maintenance of Preserved Plant Communities Receiving Open Space Credit.** To receive open space credit for areas of preserved vegetation, the owner shall covenant with the city of Sultan that the preserved plant community will be maintained as per the accepted management plan. (Ord. 630 § 2[16.10.070(4)], 1995)

Chapter ~~176.1896~~

SHORELINE MANAGEMENT*

*Code reviser's note: Ord. 915-07 adopts the City of Sultan Shoreline Master Program, replacing the county provisions previously adopted by Ord. 630.