



PLANNING BOARD AGENDA

PLANNING DEPARTMENT

May 5, 2020 - 7:00 PM
City of Sultan Council Chambers
319 Main Street, Sultan WA 98294

- I. **Call to Order, Pledge of Allegiance**
- II. **Roll Call**
- III. **Approval/Changes to the Agenda**
- IV. **Public Comments/Visitors**

Anyone who wishes to speak on any matter not appearing on the agenda may do so at this time. 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.
- V. **Planning Board Member Comments**
- VI. **Staff Comments**
 - a. Land Use Project Updates
 - b. PRO Plan Update
- VII. **Approval of Minutes**

March 3, 2020 Meeting Minutes
- VIII. **Discussion Item**
 - a. Development Code Update Project
 - b. Transportation Element Update
- IX. **Summary of Meeting Results and Actions for Next Meeting**
- X. **Public Comments on Agenda Items Only**
- XI. **Planning Board Member Comments**
- XII. **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

Tom Green
Gloria Reedy
Janet Peterson
Sean Standefer
Mike Weidman

Community Development Staff

Andy Galuska, Planning Director
Cyd Donk, Secretary of the Board/Assistant Planner

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 March 3, 2020

PLANNING BOARD MEMBERS PRESENT:

Janet Peterson
 Gloria Reedy
 Tom Green
 Sean Standefer
 Michael Weidman, Excused

STAFF PRESENT:

Andy Galuska, Planning Director
 Cyd Donk, Assistant Planner

CALL TO ORDER:

Call to Order at 7:00 p.m.

CHANGES TO THE AGENDA:

None.

PUBLIC COMMENTS ON MATTERS NOT ON THE AGENDA:

Standefer discusses the corona virus and gave good information on how to stay safe and be responsible.

PLANNING BOARD MEMBER COMMENTS:

None.

STAFF COMMENTS:

Land Use Project Updates - Residential Projects

<i>Project Name</i>	<i>Location</i>	<i>Update</i>	<i>Next Step</i>
Daisy Crossing (AKA Green's Estates) (79-Lots)	Southeast of Sultan Basin and 132 nd Street	Minor Revision approved	Plat recorded on 2.27.2020.
Skyridge Estates (249-Lots)	31419 124 th Street SE (East of City's Water Plant)	Project under civil construction. Applicant has submitted a final plat application for phase one.	1 st phase almost ready for final plat. Model home construction starts 3.4.2020

Wyndham Highlands 1 (171-Lots)	13104 Sultan Basin Road	Hearing held November 22 nd	Working on traffic review then back to Hearing Examiner – scheduled for 3.18.2020
Wyndham Highlands 2 (30-lots) (30-Lots)	North of 135 th Street SE	Submitted 11.7.19	Public Hearing 2.21.2020 rescheduled for 3.5.2020.
Wyndham Highlands 3 (17-Lots)	1308 9 th St	Approved by Hearing Examiner. Reconsideration requested. Applicant has submitted a minor revision.	Hearing Examiner approved subject to conditions on 10.7.19 with minor revision to 17-lots received 3.3.2020. major revision received 3.3.2020
Cobble Hill (115-lots)	31129 124 th Street SE (East of City's Water Plant)	Project under civil construction.	SEPA/MDNS sent for review.

PRO Plan Update

Staff gave overview planning an open house on the 16th around 6:00 p.m. still working on the details. Everyone is invited to attend. Will try to have them come to a planning board meeting

APPROVAL OF MINUTES:

Standefer made a motion to approve the February 4, 2020 minutes with a change in the minute date from 2019 to 2020. Seconded by Green . All Ayes.

DISCUSSION AND STUDY ITEMS:

Board and staff had a discussion on the traffic analysis and traffic modeling for the proposed road access from Sultan Basin Road into downtown Sultan. This project is still in the planning stages. TSI is modeling the 4-routes to see which one would be the best east-west connector.

Minor Adjustments:

Staff gave an overview of the minor adjustments section of the Sultan Municipal Code and some of the issues that need to be cleaned and cleared up. Minor adjustments could still be reviewed by the City. Staff gave a red-lined version of the code to review. Staff does not want the plans to change from the approved hearing examiners decision without the public having notice. Board asked for some examples of minor revisions. Staff explained what a fairly typical minor change would be, for example, moving lots around or where the change in the plat are design oriented. Board asked to explain what “trips” meant. Staff explained what the traffic trip is. Staff explained.

Development Code Update Project

The city is working with a UW student, Alexander, who is a grad student in planning and the consultant company LDC out of Woodinville to go over and help with updating the Sultan Municipal Code changes. Staff went over what they have accomplished so far. Looking for a final date of May or June.

Board was pleased with what they have seen so far. Looking forward to the finished products. Alexander will be presenting at a future meeting.

PUBLIC COMMENTS ON AGENDA ITEMS ONLY:

None.

SUMMARY OF MEETING RESULTS AND ACTIONS FOR NEXT MEETING:

April 7th Meeting Agenda Code sections in writing for review.

Try to have students to come and present their findings

PLANNING BOARD MEMBER COMMENTS:

None.

STAFF COMMENTS:

None.

ADJOURNMENT:

Green made a motion to adjourn and close the meeting, Reedy seconded the motion. All Ayes.

ADJOURNED 7:30 P.M.



SULTAN PLANNING BOARD AGENDA ITEM COVER SHEET

ITEM NO: A

DATE: May 5, 2020

SUBJECT: Development Code Update

Contact Person: Andy Galuska, Director

Presenter(s): Todd Hall, Planning Manager, LDC, Inc.
Matt Covert, Planner, LDC, Inc.

ITEM:

Through a partnership with a student from the University of Washington's Livable City Year (LCY) program, LDC, Inc., a consulting firm from Woodinville, was hired earlier this year to assist the City with the Development Code Update project.

STAFF RECOMMENDATION:

Staff recommends that the Board review the draft code amendments to the Sultan Municipal Code (SMC).

DISCUSSION:

The Development Code Update project is an effort to update existing and develop new code chapters and processes in the Sultan Municipal Code (SMC) associated with land use development and public works processes related to land use development. A full scope of work, as well as the proposed code amendments, are provided on the following pages.

ATTACHMENT(S):

Attachment A: Scope of Work
Attachment B: UW Student Livable City Year Code Analysis
Attachment C: Draft SMC Code Amendments
Attachment D: LDC Staff Memo on Code Revisions (April 24, 2020)

Attachment A

**2020 DEVELOPMENT CODE UPDATE
SCOPE OF WORK**

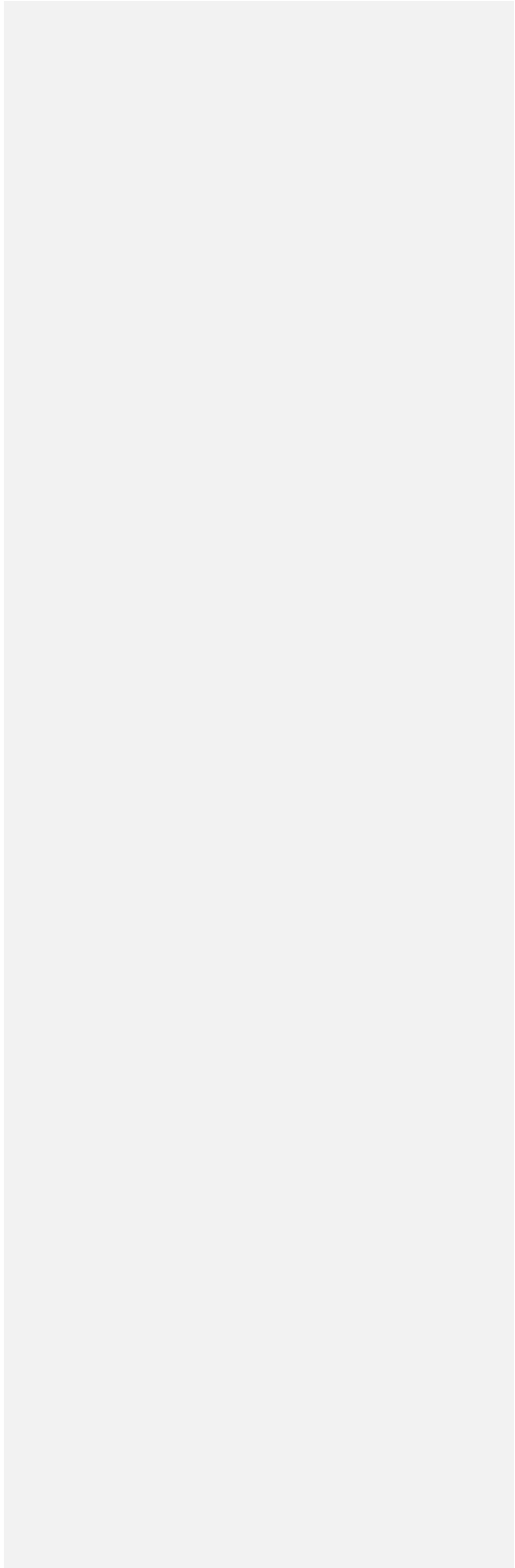
- 1) Code to clarify and ensure that developments are required to install frontage improvements. (Code sections 19.10.070, 19.14.070, 19.18.160)
- 2) Code to clarify and ensure that developments are required to extend utilities. (Code section 13.02.080)
- 3) Develop a table which give all permit approvals a “type” and set out process, decision, noticing requirements, appeals, and expiration for each type. (Code section 19.22, 19.24, 19.26, 19.28)
- 4) Review the requirements for recreation facilities in new developments as well as the fee in lieu. (Code section 16.62)
- 5) Add a requirement for grading permits and set reasonable thresholds when permits should be required. (Code section 17.16)
- 6) Add deviations from EDDS as a permit type (Not currently in code, but in 1-05 of EDDS)
- 7) Give Public Works Director authority to require road stubs and set their location. (Not currently in code but we would like to add it)
- 8) Require pedestrian connections for new developments. (Not currently in code, but we would like to add it)
- 9) Impact fee credits and what the credits are for (Code section 16.72)
 - a. Clarifying within the code what is eligible for a credit and what is not.

Attachment B

UW STUDENT – LIVABLE CITY YEAR CODE ANALYSIS

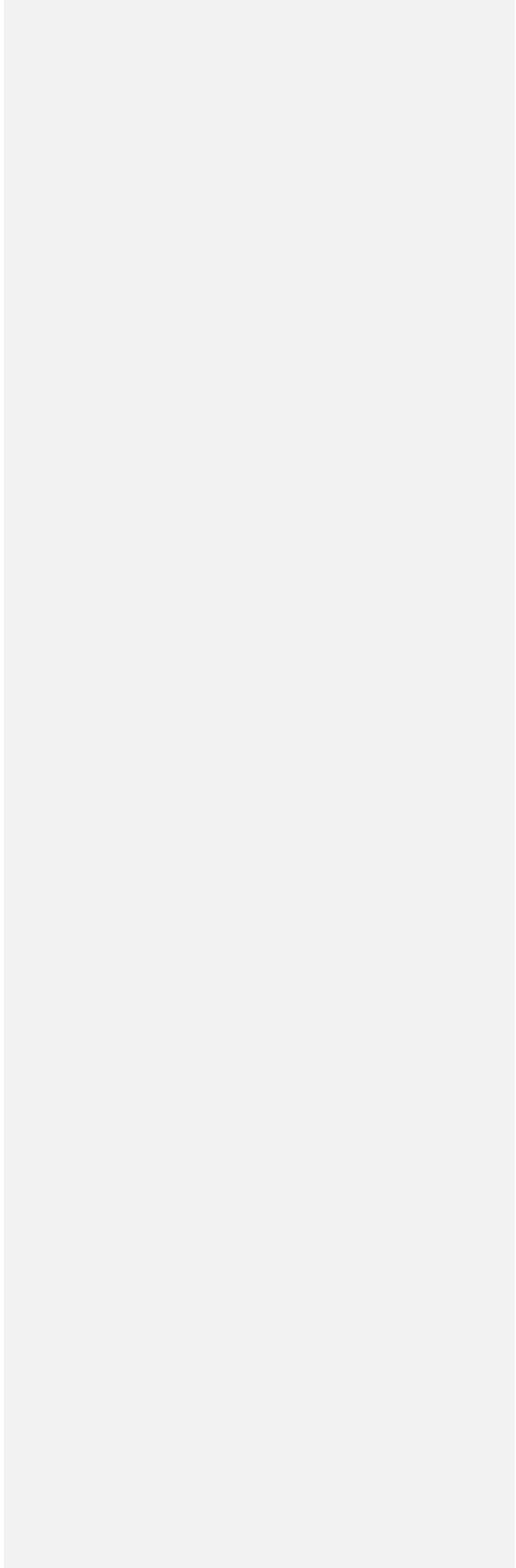
The following pages includes review and analysis of each code section by Aleksandr Romanenko, UW Livable City Year student, and current City intern.

DRAFT



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Attachment C

DRAFT SMC CODE AMENDMENTS

The following pages include draft amendments to Sultan Municipal Code for the following chapters:

1. Chapter 16.06 – Permit Processing
2. Chapter 16.62 – Recreation and Open Space Standards
3. Chapter 17.13 – Grading, Excavation and Land Filling
4. Chapter 11.12 – Engineering Design and Development Standards
5. Chapter 16.72 – Developer Impact Fees
6. Chapter 13.06 – Required Developer Utility Extensions
7. Chapter 19.30 – Required Infrastructure Improvements
8. Chapter 12.## - Road Stubs
9. Chapter 12.## - Pedestrian Connections

DRAFT

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DRAFT Chapter 16.06 - Permit Processing

Sections:

- 16.06.010. Purpose.**
- 16.06.020. Type of permit applications.**
- 16.06.030. Types I – IV project permit applications.**
- 16.06.040. Public notice.**
- 16.06.050. Consistency with development regulations and SEPA.**
- 16.06.060. Appeals.**
- 16.06.070. Open record public hearings.**

16.06.010 Purpose.

The purpose of this chapter is to outline the permit processing application type, requirements, decision and noticing procedures for land use permit applications as outlined in Title 16, Zoning Code. Procedures for legislative land use actions, or those that require actions taken by the city council, are also outlined in this chapter.

16.06.020 Type of permit applications.

A. Procedures for Processing Permit Applications. For the purpose of permit processing, all land division permit applications shall be classified as one of the following: Types I, II, III, and IV. Legislative decisions are Types IV actions and are addressed in subsection E of this section. Exemptions from permit processing procedures are listed in subsection F of this section.

B. Determination of Procedure Type.

1. The director or designee shall determine the proper procedure for all project permit applications. If there is a question as to the appropriate type of procedure, the director shall resolve the question in favor of the higher procedure and type number. If a permit type is not included in section (C)(1) of this section, the director shall determine the proper procedure for that permit type by reviewing the permit in light of subsection (C)(1) of this section, and determining which procedure the permit most closely resembles.

2. Optional Consolidated Permit Processing.

a. An application that involves two or more procedures may be processed collectively under the highest numbered procedure required for any part of the application or processed individually under each of the procedures identified by code. If the application is processed under the individual procedure option, the highest numbered type procedure must be processed prior to the subsequent lower numbered procedure. If multiple applications are submitted concurrently, the city shall process as a consolidate application unless otherwise notified by the applicant.

b. Except as otherwise exempted by Chapter 17.04 SMC, environmental (SEPA) review shall be conducted concurrently with the project review.

c. Applications processed in accordance with subsection (B)(1) of this section which have the same numbered procedure but are assigned to different hearing bodies, shall be consolidated and heard by the highest decision maker. The city council is the highest decision maker, followed by the hearing examiner, and then the director. Joint public hearings with other agencies shall be processed according to subsection D of this section.

d. Project permit applications are allowed a maximum of one open record hearing and one closed record appeal hearing.

C. Permit Applications. The following tables set out the project permit decision making and appeal processes, the division of action types into permit types, the required procedure for each permit type, and the notice requirements for project permits.

1. Permit Applications – Action Type.

Table 16.06-A: Permit Applications – Action Type

Type I	Type II	Type III	Type IV
Boundary line adjustments	Building permits – SEPA required	Conditional use permits (CUP)	Comprehensive Plan Amendment
Minor building remodels, no permit required	Other construction permits – SEPA required	Variances	Zoning code text/map amendment
Building permits – no SEPA required	Preliminary Short subdivisions	Development Permit (Commercial/Multi-family)	Rezoning
Other construction permits – no SEPA required	Minor adjustments to preliminary plats	Shoreline CUPs ¹	Development Agreement
Administrative interpretations	All other land division proposals determined by the director to be most similar to Type II applications	Reasonable use exceptions	Pre-annexation zoning
Shoreline exemptions ¹		Shoreline variances ¹	Annexation
Development permit	Grading Permit ³	Preliminary subdivision applications	
Vegetation Removal Permit ²		Final subdivision plats	
Eligible facilities requests	Binding Site Plans	All other land division proposals determined by the director to be most similar to Type III applications	
All other land use proposals determined by the director to be most closely similar to Type I applications			

Commented [MC1]: Mentioned in code repeatedly but never defined or separated out as its own permit type. Whether it should be a separate application or not is a topic for future discussion with the city.

Commented [MC2]: Shoreline permits are actually not defined anywhere in code that I can find. This chapter should reference the SMP.

Commented [MC3]: The “development (site plan) permit” is titled as a Type 1 application, but since site development encompasses clearing, grading, installation of infrastructure, and potentially land use applications as well, we recommend the city adopt grading and clearing into the development application.

Commented [MC4]: Not in code, but added in draft form as SMC 17.13 as part of this contract

Commented [MC5]: According to 19.10.050, final plats are an administrative review, but according to 19.10.020, it’s a Type IV action, which requires a hearing examiner recommendation to the council. This is a pretty big discrepancy that will need to be resolved.

¹ Shoreline applications and permit processes are defined in the city’s Shoreline Master Program.

² In addition to the procedural requirements established in this title, Vegetation Removal Permit applications shall be governed by the performance standards in SMC 17.14.

³ In addition to the procedural requirements established in this title, Grading Permit applications shall be governed by the performance standards established in SMC 17.13.

Table 16.06-B: Decision Making and Appeal Process

	Type I	Type II	Type III	Type IV
Final decision made by	Director	Director	Hearing Examiner/Director	City Council
Recommendation made by	N/A	N/A	Planning Department	Planning Commission
Open record public hearing – Decision	N/A	N/A	Hearing Examiner	City Council
Open record public hearing - Appeal	Yes	Yes	No	No
Closed record appeal	Hearing examiner	Hearing examiner	County Superior court	No
Appeal to:	Hearing examiner	Hearing examiner	County Superior court	County Superior court
Judicial appeal	N/A	N/A	Yes	Yes

Table 16.06-C: Required Procedures for Permit Applications

	Type I	Type II	Type III	Type IV
Preapplication conference	Yes ¹	Yes	Yes	No
Notice of completeness	Yes	Yes	Yes	Yes
Notice of application	No	Yes	Yes	No
SEPA determination ²	No	Yes	Yes	Yes
Notice of hearing	No	Yes	Yes	Yes
Notice of decision	No	Yes	Yes	Yes
Review period ³	90 days	90 days	120	No

¹ Pursuant to Chapter 19.16.030, when a proposed boundary line adjustment involves only two regular rectangular parcels and the proposed boundary line adjustment is to move the common line to create two revised regular rectangular parcels, the applicant may submit the application without a preapplication conference.

² SEPA not required for applications that are categorically exempt in accordance with Chapter 17.04 SMC.

³ One hundred twenty (120) day review does not apply to preliminary or final subdivisions. Preliminary short or long subdivisions have ninety (90) day review clock and final short or long subdivisions a thirty (30) day review clock in accordance with RCW 58.17.140.

Table 16.06-D: Notice Requirements for Permit Applications

	Send to Property Owners Within 300'	Post Property	Publish Notice	Send to Agencies	Send to Applicant
Notice of Completeness	No	No	No	No	Yes
Notice of application	Yes	Yes ¹	Yes ²	Yes ³	Yes
SEPA determination	No	No ⁴	Yes	Yes	Yes
Notice of open record predecision hearing, if applicable	Yes	Yes	Yes	No	Yes
Notice of decision ⁵	No	Yes	Yes	No	Yes
Notice of open record appeal hearing, if applicable	Yes	Yes	Yes	No	Yes

¹ Notices are posted on site for Type II – IV applications, if applicable.

² Notices are published in the City's paper of record for Type II - IV applications, if applicable.

³ Notices are sent to agencies for projects not categorically exempt under SEPA to directors and agencies with jurisdiction over the project permit application.

⁴ SEPA appeal hearing notices are posted.

⁵ Notices are sent to parties of record.

D. Joint Public Hearings.

1. The director may combine a public hearing on a permit application with a hearing that may be held by another local, state, regional, federal, or other agency on the proposed action if the requirements of subsection (D)(3) are met.
2. The applicant may request that the public hearing on a permit application be combined with a hearing held by another government agency if the joint hearing can be held within the time periods set forth in this title.
3. A joint public hearing may be held with another local, state, regional, federal or other agency and the city, as long as:
 - a. The other agency is not expressly prohibited by statute from doing so;
 - b. Sufficient notice of the hearing is given to meet each of the agencies' adopted notice requirements as set forth in statute, ordinance, or rule;
 - c. The agency has received the necessary information about the proposed project from the applicant in enough time to hold its hearing at the same time as the city's hearing; and
 - d. The hearing is held within the incorporated city limits.

E. Type IV - Legislative Decisions

1. All Types IV actions set forth in subsection (C)(1) of this section are legislative and are not subject to the procedures in this chapter unless otherwise specified.

2. The planning board shall make a written recommendation to the city council regarding Type IV actions at the close of their final public hearing or at their next scheduled meeting. The written recommendation to the city council shall be one of the following:

- a. Recommendation for additional time and/or resources on the application;
- b. Recommendation of approval of the legislative action;
- c. Recommendation of approval of the legislative action with modifications;
- d. Recommendation of denial of the legislative action.

3. Type IV applications require a minimum of one public hearing before the city council held in accordance with established rules. The city council shall consider the recommendation of the planning commission, and the public testimony in making its legislative decision.

4. Notices for public hearing shall be distributed following the threshold determination for the application and comments on the application, and shall be provided at least 20 calendar days prior to the hearing. The conduct of the hearing shall be as set forth in Chapter 16.86 SMC.

F. Exemptions from Project Permit Application Processing. The following permits or approvals are excluded from the procedures set forth in this title:

1. Street vacations shall be processed in accordance with RCW 35.79 and any applicable city regulations;
2. Temporary use permits shall be processed in accordance with ____;
3. Street use (right-of-way) permits shall be processed in accordance with 13.12.080(C) and 13.08.030(C) SMC;
4. Special event permits shall be processed in accordance with SMC 9.14; and
5. Other permits as determined appropriate by the director.

16.06.030 Types I – IV Project Permit Applications

A. Types I -III Permits. Types I - III permit applications shall be processed in accordance with the criteria and regulations set out in the appropriate title of the Sultan Municipal Code and in accordance with this chapter as applicable.

1. Boundary line adjustments shall meet the criteria set out in 19.16 SMC.
2. Minor exterior remodels, no building permit required, shall meet the standards set out in **DMC Chapter 14.34**.
3. Building permits and related improvements shall be in accordance with this title as determined by the director, and the IBC as determined by the building official.
4. Other construction permits shall be in accordance with this title as determined by the director and with the City of Sultan EDDS and other standards as approved by the public works director, notwithstanding deviations to the EDDS approved under 11.12 SMC.
5. Wireless facilities on existing structures, camouflaged, shall meet the criteria set out in 16.66 SMC.
6. Critical areas permits shall meet the criteria set out in 17.10 SMC.
7. Clearing and grading permits shall meet the criteria established in 17.13 and 17.14 SMC.
8. Shoreline exemptions shall meet the criteria set out in the City of Sultan's Shoreline Master Program.

Commented [MC6]: Code mentions temporary use permits regarding mobile homes (15.14 SMC) and business license exemptions (5.04.060 SMC), but there is no permit form on the city's website.

Commented [MC7]: This takes the place of both the permit processes currently in title 19 and those portions of Title 16 covering permit applications now covered in the tables in the previous section (CUPs, development permits, grading and clearing permits)

8. ~~Site plan approvals, parks, less than ½ acre, shall meet the criteria set out in DMC Chapter 14.62 and all other applicable regulations of this title.~~

Commented [MC8]: Don't need?

B. Preapplication Meeting.

1. Applications for Types III - IV permits will not be accepted until the applicant has attended a preapplication meeting. Preapplication meetings may be required for Type IV permits at the director's discretion. The director may waive preapplication meetings on a case-by-case basis if special circumstances, as determined by the director, exist.
2. The director shall establish procedures, reasonable schedules, and staff participation for preapplication meetings.
3. The applicant shall be responsible for all staff costs related to the preapplication meeting.

C. Project Permit Applications. This section applies to all project permit application types, except that applications for building permits shall be on forms as determined by the building official and applications for construction permits shall be on forms as determined by the public works director.

1. An application shall consist of all materials required by the application submittal checklist, the applicable development regulations and shall, at a minimum, include the following:
 - a. A completed project permit application form signed by the property owner(s) and/or applicant and notarized;
 - b. A statement that the applicant attests by written oath to the accuracy and completeness of all information submitted for an application;
 - c. A statement by the applicant that the property affected by the application is in the exclusive ownership of the applicant, or that the applicant has submitted the application with the written consent of all owners of the affected property and such written consent is supplied with the application;
 - d. A property and/or legal description of the site;
 - e. The application deposit, with a statement signed by the applicant accepting responsibility for all fees and charges over the deposit amount;
 - f. Evidence of sewer availability and payment of sewer fees, if applicable;
 - g. Any additional information as required by the specific submittal checklist for each specific application type;
 - h. A project permit application is complete when it meets the submittal requirements specified by the director.
2. The director shall have the authority to prepare and revise submittal requirements.

Commented [MC9]: Not necessary?

D. Submission and Acceptance of Application.

1. Where applicable, within twenty-eight (28) days after receiving a project permit application, the director shall provide a written determination to the applicant which states either: that the application is complete, or that the application is incomplete, and states the necessary items to make the application complete.
2. To the extent known by the city, other agencies with jurisdiction over the project permit application shall be identified in the city's determination required by subsection (D)(1) of this section.
3. A project permit application is complete for purposes of this section when it meets the submittal requirements in subsection C of this section. A determination of completeness shall be made when the application is sufficient for continued processing even though additional information may be required or project modifications may be undertaken subsequently. The city's determination of completeness shall not preclude the city from requesting additional information

or studies either at the time of the determination or at a later time, if new information is required or where there are significant changes in the proposed action.

4. Incomplete Application Procedure.

- a. If the applicant receives a determination from the city that an application is not complete, or if additional information has been required by the city, the applicant shall have ninety (90) days to submit the requested information to the city. Within fourteen (14) days after an applicant has submitted the requested information, the city shall make the determination as described in subsection (D)(1) of this section.
- b. If the applicant does not submit the requested information within the ninety (90) day period, the application shall lapse.
- c. In those situations where the application has lapsed because the applicant has failed to submit the required information within the necessary time period, the applicant may request a refund of the unexpended application fee.

5. The applicant shall designate a single person or entity to receive all notices required by this chapter and to receive all billing statements.

E. Notice of Application. A notice of application shall be issued in accordance with the provisions of Table 16.06-C and shall include the information set out in 16.06.040 SMC, Public notice.

F. Referral and Review of Project Permit Applications.

1. The director shall route project permit applications to all affected city departments for review and comment. Timing of such routing shall be determined in consultation with the DRC. Project permit applications shall be reviewed in accordance with applicable city policies and regulations. The director shall set out time periods for review by affected departments and distribute information at DRC meetings.
2. The director shall route project permit applications to consultants as the director determines necessary. All costs of consultant review shall be billed to the project applicant.

Commented [TH10]: Is DRC still being held?

Commented [TH11]: Still being held?

G. Time Limits/Review Clock. Following are the time limits that are set out for project review.

1. The city shall issue a notice of final decision on a project permit application for a preliminary long or short plat within ninety (90) days after the applicant is notified that the application is complete.
2. The city shall issue a notice of final decision on a project permit application for a final plat within thirty (30) days after the applicant is notified that the application is complete.
3. The city shall issue a notice of final decision on all other project permit applications within one hundred twenty (120) days after the applicant is notified that the application is complete or within fourteen (14) days of approval.
4. The city shall exclude the following period from the time limits of subsections (G)(1) through (3) of this section:
 - a. Any period during which the applicant has been requested by the city to correct plans, perform required studies, or provide additional information. The period shall be calculated from the date the city notifies the applicant by mail, at a meeting, or by email that additional information is required until a date no more than fourteen (14) days after the applicant has submitted the requested information. The city shall determine if the information submitted is sufficient. If the information is not sufficient, this process will begin again;
 - b. Any period of time in excess of that allowed by the city for applicant review of city comments and documents;
 - c. Any period during which an environmental impact statement (EIS) is being prepared following a determination of significance;
 - d. Any period for administrative appeals of project permits, if applicable.

H. Notice of Decision.

1. The city shall provide a notice of decision that also includes a statement of any SEPA threshold determination made and the procedures for administrative appeal. The notice shall be provided to the applicant and any person who, prior to the rendering of the decision, requested notice of decision or submitted substantive comments on the application. The staff report can be the notice of decision.
2. The city shall make every effort to process applications in a timely manner. When time limitations are not met, the city shall provide a written explanation to the applicant. The explanation shall state the reasons why the decision has not been issued and the estimated date of the decision. Alternatively, an applicant and the city can mutually agree to extend the time period for a decision.

I. Substantial Revisions or Modifications to Proposal.

1. A revision or modification to the contents of an application before or after issuance of the permit, either voluntarily or to conform with applicable standards and requirements, shall be deemed a new application for the purpose of vesting when the revision or modification would result in a significant increase in a project's impacts as determined by the director. In reaching a decision on whether a revision is significant, the director's consideration shall include but not be limited to, the magnitude of the revision and the effect on the environment; the environmental sensitivity of the site; any changes in location of significant elements of the project and their relationships to public facilities, the impact of the revision on the review clock, and impacts to surrounding lands and land uses.
2. Written notice of such determination of substantial revision or modification shall be provided to the applicant and to all parties of record.
3. Any revision or modification deemed by the director to be substantial shall conform to the time periods set forth in subsection G of this section. The review cycle for the revised project application shall begin with the date the revised project application is determined to be complete. The revised project application shall be subject to all laws, regulations, and standards in effect on the date of receipt of a complete, revised project application.

16.06.040 - Public notice.

A. Publication and Certification of Notice.

1. The director shall publish notices for which publication is required in the city's official newspaper.
2. Publication is deemed complete on the date of publication. Proof of publication provided by the newspaper shall be presumptive evidence of the date of publication.
3. The director shall post, or cause to be posted, notices in the manner required by this code. Proof of posting in the following form executed by director or director's representative shall be presumptive evidence of the date of posting:

CERTIFICATE

I certify under penalty of perjury under the laws of the state of Washington that the content of the attached form of notice was posted in the following described manner on the following stated date(s): _____.

(Date and Place of Signing)

Commented [TH12]: Still want to require this?

(Signature)

B. Notice of application – Contents.

1. Where formal notice of application is required for individual notice to applicants, agencies, surrounding property owners, or other persons, said notice shall include the following:

A. The identity of the applicant;

B. The date of the notice of application;

C. Notice that the city uses the optional threshold determination process authorized by WAC 197-11-355;

D. Notice that the application comment period for nonexempt proposals may be the only opportunity to comment on the environmental impacts of the proposal;

E. Notice that the proposal may include mitigation measures under applicable codes and the project review process may incorporate or require mitigation measures regardless of whether an environmental impact statement is prepared;

F. Notice that a copy of the subsequent threshold determination on the proposal may be obtained upon request;

G. A statement identifying the public comment period, the right to comment on the application, receive notice of and participate in hearings, request a copy of decision on the proposal once made and any appeal rights;

H. To the extent applicable, the date, time, place and type of hearing upon the application if such hearing has been scheduled at the time the notice of application/proposal is given; and

I. Other information that the director determines to be appropriate.

C. Notice of application – Distribution. Notice shall be distributed in the following manner, as appropriate to the level of review applicable to the project:

1. Applicant Notice. The director shall deliver or mail notice of application to the applicant, or the person or entity designated by the applicant to receive notice. The notice of application may be provided to the applicant or applicant's designee contemporaneously with the determination of completeness.
2. Agency Notice. The director shall mail notice of applications that are not categorically exempt under SEPA to directors and agencies with jurisdiction over the project permit application.
3. Combined Notice. Notice of application may be combined with notice of hearing if the hearing date has been set at the time notice of application is given. Each combined notice shall contain the notice of application information required herein and the notice of hearing information required by Chapter 2.26 SMC.
4. The director will document the date and manner by which any notice is given.
5. The director may remove, or cause to be removed, posted notice upon expiration of the comment period.
6. Publication costs and costs incurred to post and remove notice at the proposal site shall be borne by the applicant in addition to other costs and fees which apply, as provided by the then-current city of Sultan annual fee schedule.

- D. Notice of application – Type I applications categorically exempt from SEPA review.
1. The director shall deliver or mail notice of interpretation requests and applications for Type I proposals that are categorically exempt under SEPA to parties that have filed a special notification request in accordance with SMC 16.06.050.
 2. Such notice shall explain that there is no comment period and that the proposal is categorically exempt under SEPA.
- E. Notice of application – Type II applications and Type I applications nonexempt from SEPA review.
1. The director shall deliver or mail notice for application of Type II proposals and Type I applications that are not categorically exempt under SEPA to parties that have filed a special notification request in accordance with SMC 16.06.050.
 2. The director shall additionally post notice on the city internet website containing the following information:
 - A. The identity of the applicant;
 - B. The date of the application and the date of the determination of completeness;
 - C. A brief description of the proposed action;
 - D. If a preliminary determination has been made, a statement that the proposal is subject to threshold determination requirements and the preliminary threshold determination that it expects to issue;
 - E. A statement identifying the public comment period and where comments may be made and a statement that the application comment period may be the only opportunity to comment on the environmental impacts of the proposal;
 - F. A statement explaining how interested parties may request special notice.
- F. Notice of application – Level III and Level IV applications.
1. The director shall deliver or mail notice for application/proposal of Level III and Level IV applications to:
 - A. The record owner(s) of property within 300 feet of the proposal site measured from each property line of the proposal site, as shown by the records of the Snohomish County assessor's office.
 - B. Parties that have filed a special notification request in accordance with SMC 16.06.050.
 2. The director shall post, or cause to be posted, conspicuous notice at the proposal site and post notice on the city internet website which states:
 - A. The identity of the applicant;
 - B. The date of the application and the date of the determination of completeness;
 - C. A brief description of the proposed action;
 - D. If a preliminary determination has been made, a statement that the proposal is subject to threshold determination requirements and the preliminary threshold determination that it expects to issue;
 - E. A statement identifying the public comment period and where comments may be made and a statement that the application comment period may be the only opportunity to comment on the environmental impacts of the proposal;

F. A statement explaining how interested parties may request special notice.

G. Notice of application – Level III and Level IV public hearings.

1. Notice shall be published in the city's official newspaper as provided in SMC 16.06.040.A.
2. The director shall deliver or mail notice for application/proposal of Level III and Level IV applications to:
 - A. Parties that have filed a special notification request in accordance with SMC 16.06.050.
 - B. The record owner(s) of property which is within 300 feet of the exterior boundaries of the subject parcel.
3. The director shall post, or cause to be posted, conspicuous notice at the proposal site and post notice on the city internet website which states:
 - A. The identity of the applicant;
 - B. The date of the application and the date of the determination of completeness;
 - C. A brief description of the proposed action;
 - D. If a preliminary determination has been made, a statement that the proposal is subject to threshold determination requirements and the preliminary threshold determination that it expects to issue;
 - E. A statement identifying the public comment period and where comments may be made and a statement that the application comment period may be the only opportunity to comment on the environmental impacts of the proposal;
 - F. A statement explaining how interested parties may request special notice.

H. Comment period.

1. There is no public comment period on Level I proposals that are categorically exempt under SEPA.
2. There shall be a 14-day public comment period on Level II proposals and Level I proposals that are not categorically exempt under SEPA.
3. There shall be a 14-day public comment period on all Level III and IV proposals even if they are categorically exempt under SEPA.
4. The length of the comment period shall be identified in the notice of application.
5. The applicant is deemed to be a participant in the comment period and may submit comments during the comment period in addition to those submitted by agencies and the public.
6. Comments must be submitted in writing to the director prior to expiration of the comment period.
7. The city may assume that parties which do not respond with written comments within the time period for commenting have no information relating to the proposal or its potential impact(s).

I. Integration of notice procedures with environmental review procedures.

1. If the city has made a determination of significance under Chapter 43.21C RCW concurrently with the notice of application, the notice of application shall be combined with the determination of significance and scoping notice. Nothing in this chapter prevents a determination of significance and scoping notice from being issued prior to the notice of application.

2. Except for a determination of significance, the city may not issue its threshold determination, or issue a decision or a recommendation on a project permit, until the expiration of the public comment period on the notice of application.

J. Request for special notice.

1. "Special notice" means that the city will provide the information required by SMC 16.06.040 E, F, or G, whichever is appropriate to the specified application process, to a person not specified by the applicable code provisions to receive such notice. "Special notice" does not mean that the person may request or expect to receive information beyond that normally called for by the notice provisions applicable to the application.
2. A person may request to be provided notice of a particular application process filed under the provisions of this title by one of the following methods:
 - A. Filing a no-cost form provided by the city for the purpose of requesting a special notice.
 - B. Providing by letter or email a request for special notice which clearly states:
 - i. The requestor's name and contact information;
 - ii. The specific application of interest in the request.
3. The city shall have five days to respond to a request for special notice. If the hearing or other event that is the subject of the special notice request has already taken place, there shall be no effect or recourse available to the requestor based on lack of notice.

K. Notice of decision. Notice of decisions made pursuant to this title shall be provided according to the following provisions:

1. Notice of decision on an application under this title shall be provided to the following:
 - A. A letter delivered, or sent by first-class mail to:
 - i. The applicant, or the person or entity designated by the applicant to receive notice;
 - ii. The appellant, if any;
 - iii. Parties that have filed a special notification request in accordance with SMC 16.06.050 prior to rendering of the decision;
 - iv. Identifiable parties who have provided addresses and have submitted substantive written comments on the proposal prior to rendering of the decision.
 - B. For Level II applications and Level I applications nonexempt from SEPA review, notice shall be as provided in subsection (A)(1) of this section and shall also include:
 - i. Posting on the city's website.
 - ii. Individual notice to the record owner(s) of property which is adjacent to the proposal site, as shown by the records of the Snohomish County assessor's office.
 - C. For Level III and Level IV applications, notice shall be as provided in subsection (A)(1) of this section and shall also include:
 - i. Posting on the city's internet website.
 - ii. The record owner(s) of property within 300 feet of the proposal site measured from each property line of the proposal site, as shown by the records of the Snohomish County assessor's office.

iii. Snohomish County assessor's office.

D. A notice of decision shall include the following:

- i. The name and a brief description of the project;
- ii. The identity of the applicant;
- iii. Date of the decision;
- iv. Brief description of the decision and any conditions;
- v. The appeal rights that apply to the decision and the final date to file an appeal.

16.06.050 - Consistency with development regulations and SEPA.

A. Consistency with Other Regulations and Plans.

1. When the city receives a project permit application, consistency between the proposed project and the applicable regulations in this title and the policies set out in the Sultan Comprehensive Plan shall be determined through staff review of the project and the issuance of a permit or the preparation of a staff report to the decision maker.
2. During project permit application review, the city shall determine whether the items listed in this section are defined in the development regulations applicable to the proposed project and if the proposed project meets the development regulations. In the absence of applicable development regulations, the city shall determine whether the items listed in this section are defined in the city's adopted comprehensive plan and if the proposed project meets the comprehensive plan policies. This determination of consistency shall include, but is not limited to, the following:
 - a. The type of land use permitted at the site, including uses that may be allowed under certain circumstances, if the criteria for their approval have been satisfied;
 - b. The level of development, such as units per acre, floor area ratio, lot coverage, etc;
 - c. Availability and adequacy of infrastructure and public facilities identified in the comprehensive plan, if the plan or development regulations provide for funding of these facilities as required by Chapter 36.70A RCW; and
 - d. Character of the development, such as development standards.
3. The project permit application shall be reviewed for consistency with all criteria set out in this title for the project permit application type(s).

B. Initial SEPA Analysis.

1. The city shall review the project permit application under the requirements of SEPA, Chapter 43.21C RCW, the SEPA Rules, Chapter 197-11 WAC, and the city's SEPA regulations, 17.04 SMC.

16.06.060 - Appeals.

A. Appeal of Decisions. Project permit applications shall be appealable as provided in Table 16.06-B of this title.

B. Consolidated Appeals.

1. All appeals of project permit application decisions, other than an appeal of determination of significance (DS), shall be considered together in a consolidated appeal.
2. Appeals of environmental determinations under SEPA shall proceed as an appeal of the underlying permit in the process set out in this chapter.

C. SEPA Appeals.

1. SEPA appeals associated with a Type I or II project permit applications can be on procedural or substantive grounds and are administered as follows:
 - a. SEPA appeals shall be heard by the hearing examiner in consolidation with any appeal of the underlying project permit application.
 - b. Appeals shall only be of the determination of nonsignificance or mitigated determination of nonsignificance, or final determination if issued.
 - c. Appeal of a SEPA determination shall be made by filing an appeal form containing all of the information listed in subsection D of this section and other information as determined to be necessary by the director and paying the applicable fee set out by resolution.
 - d. Appeals shall be filed within twenty-one (21) days of the issuance of a determination of nonsignificance where public comment is required.
 - e. Appeals shall be filed within fourteen (14) days after the issuance of a determination of significance with no comment period.
 - f. Appeals shall be filed within fourteen (14) days after a determination of nonsignificance is issued if such determination is issued at the same time a decision on a project permit is filed.
 - g. Appeals shall be consistent with the provisions of RCW 43.21C and WAC 197-11-680.
2. SEPA appeals associated with Type III, IV, or V permits shall be to Snohomish County Superior Court within the provisions of this chapter, or to the shoreline hearing board or the growth management hearing board consistent with state law.

D. Appeal Procedures. Appeals of the decision shall be governed by the following:

1. Standing. Only parties of record have standing to appeal the decision maker's decision.
2. Time to File. An appeal of the decision maker's decision must be filed as stated in subsection C of this section and together with the appeal fee, and must be received at City Hall before end of business day on the last business day of the appeal period.
3. Computation of Time. For the purposes of computing the time for filing an appeal, the day the decision maker's decision is rendered shall not be included. The last day of the appeal period shall be included unless it is a Saturday, Sunday, or a day designated by RCW 1.16.050 or by the city's ordinances as a legal holiday, then that day also is excluded and the filing must be completed by four-thirty p.m. on the next business day.
4. Content of Appeal. Appeals shall be in writing, be accompanied by the appeal fee, and contain the following information:
 - a. Appellant's name, address and phone number; appellant's statement describing his or her standing to appeal;
 - b. Identification of the application which is the subject of the appeal;
 - c. Appellant's statement of grounds for appeal and the facts upon which the appeal is based;
 - d. The relief sought;
 - e. A statement that the appellant has read the appeal and believes the contents to be true, signed by the appellant.
5. Effect. The timely filing of an appeal shall stay the effective date of the decision maker's decision until such time as the appeal is adjudicated or withdrawn.

E. Judicial Appeals. The city's final decision on an application may be appealed by a party of record with standing to file a land use petition in Snohomish County Court. Such petition must be filed within twenty-one (21) days of issuance of the decision, as provided in Chapter 36.70C RCW.

16.06.070 - Open record public hearings.

- A. General. Public hearings on all Types III and IV project permit applications, as defined in 16.06.020.D SMC, shall be conducted in accordance with this chapter.
- B. Responsibility of Director. The director shall:
 - 1. Schedule an application for public review and/or public hearing;
 - 2. Give notice as required by 16.06.040 SMC;
 - 3. Prepare a staff report on the application, providing all pertinent information, including recommendations on project permits in the consolidated permit process that do not require an open record public hearing. The report shall state any mitigation required or proposed under the development regulations or the city's authority under SEPA. The staff report may constitute the permit and the notice of decision.
- C. Conflict of Interest, Ethics, Open Public Meetings, Appearance of Fairness. The hearing body shall be subject to the code of ethics (RCW 35A.42.020), prohibitions on conflict of interest (RCW 35A.42.020 and Chapter 42.23 RCW), open public meetings act (Chapter 42.30 RCW), and appearance of fairness (Chapter 42.36 RCW) as the same now exist or may hereafter be amended.

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DRAFT Chapter 16.62 – Recreation and Open Space Standards

Sections:

- 16.62.010** **Applicability.**
- 16.62.020** **Exemption.**
- 16.62.030** **Recreation standards – Purpose.**
- 16.62.040** **Recreation design requirements.**
- 16.62.050** **Types and number of recreation facilities to be provided.**
- 16.62.060** **Open space standards.**
- 16.62.070** **Payment in lieu of on-site recreation improvements.**

16.62.010 **Applicability.**

Residential subdivisions of more than 10 lots, and multiple-family residential developments of 10 or more dwelling units, and commercial or industrial areas of more than 10 acres, 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 chapter. The requirements of this chapter are in addition to park impact fee requirements of Chapter [16.72](#) SMC.

16.62.020 **Exemption.**

~~Small~~ Residential developments of less than 10 dwelling units, and subdivisions of fewer than 10 lots, and commercial or industrial areas smaller than 10 acres, are exempt from the requirements of these standards.

16.62.030 **Recreation standards – Purpose.**

The city of Sultan has determined that it is important that each large residential development over 10 dwelling units and subdivisions over 10 lots 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.

16.62.040 **Recreation design requirements.**

A. Recreation areas shall be required for residential development that is subject to the provisions of this chapter and for residential development over 10 dwelling units and subdivisions over 10 lots, calculated in an amount equal to 150 square feet per person expected to reside in attached or multifamily developments. Subdivisions of 11 or more lots shall provide 250 square feet per lot for park space.

B. Recreation areas shall be provided in accordance with SMC Table 16.62-A

Table 16.62-A On-site recreation area requirements

<u>Number of Dwelling Units</u>	<u>Amount of on-site recreation area required per dwelling</u>
10- 40 units	200 sq ft
41-100 units	150 sq ft
Over 100 units	100 sq ft

~~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~~

Commented [TH13]: This table is how SnoCo calculates vs. Sultan’s existing sq ft/person metric (uncommon). However, final sq. ft size should be determined by the PROS plan findings. So this can be considered a placeholder for now.

~~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 for single-family development shall not be located in tract less than 1,000 square feet in area. Recreation facilities for attached or multifamily shall be located in a tract containing no less than a minimum of 2,000 square feet.

Commented [TH14]: County is no less than 700 sf per tract. Round up to 1,000 sf?

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 residing in the subject residential development. Therefore, no recreation area shall be located more than 2,000 feet from 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. Sites that contain critical areas as defined by Chapter 17.10 SMC are not required to have a centrally located recreation area; they may have multiple recreation areas that are accessible to all lots and not located more than 2,000 feet from any dwelling unit.

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 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 and used by the age bracket and mobility of persons likely to reside in that development. Residential developments designed for families with children shall provide recreational facilities equipped with imaginative play apparatus oriented to younger children (as well as seating accommodations for adult supervision).

~~H. Table 16.62-B 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, as adopted and amended by the city of Sultan.

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.

16.62.050 Types and number of recreation facilities to be provided.

A. Each new development shall provide recreational facilities according to the thresholds established in SMC 16.62.010. The following sub-sections identify the types of recreational facilities that fulfill the requirements of this section-

Commented [MC15]: Due to the ongoing development of the PROS plan, we're proposing removing the tables currently in code and replacing them with more limited code that references the PROS plan.

B. Recreation facilities include, but are not limited to:

1. Playgrounds developed with children's play equipment;
2. Improved pedestrian or bicycle paths with hard surfaces;
3. Sports fields (such as soccer or softball fields), with associated improvements;

- 4. Indoor or outdoor sports courts (such as volleyball, basketball or tennis courts), swimming pools, and similar facilities;
- 5. Picnic areas with permanent tables, benches or gazebos;
- 6. Community clubhouse and meeting facilities;
- 7. Community gardens for use by the residents;
- 8. Plazas with lighting, artwork, and sitting space for pedestrians at four or more spaces for every required 100 square feet of area; and
- 9. Other similar uses approved by the director.

C. Access for pedestrians shall be provided from all dwellings within a development to the recreation areas through trails, sidewalks, pathways, and other similar means of access pursuant to SMC XXXXX.

D. Recreation areas created as part of development activities must be consistent with the City of Sultan Parks, Recreation, and Open Space Plan.

E. Recreation areas design in accordance with this title shall not include any portion of privately owned yards.

F. 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.

**Table 16.62.AB
Types of Recreational Facilities**

**Table 16.62.BC
Number of Dwelling Units
Minimum # of Recreational Facilities**

~~B. For residential subdivisions of more than 100 lots and multiple family residential developments of more than 100 dwelling units, at least one recreational facility shall be Type E~~

~~K. For residential subdivisions of more than 200 lots and multiple family residential developments of more than 200 dwelling units, at least three recreational facilities shall be Type A—D; provided, that for the remaining number of required recreational facilities, one Type E—K recreational facility shall be equal to three Type A—D recreational facilities.~~

~~C. 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.~~

Commented [MC16]: Dependent on addition of pedestrian connections code section as described in LCY analysis.

Commented [MC17]: Currently under development.

Commented [MC18]: Remove with tables from existing code. Better/different system needed, related to PROS plan work.

Commented [MC19]: Moved above

16.62.060 Open space standards.

In addition to the recreation facilities requirement, at least five percent of the total land area of a residential subdivision of more than 10 lots 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. If the homeowners' association fails to responsibly maintain an open space tract and the city of Sultan must take responsibility for maintenance to ensure public safety and/or environmental protection, the city can lien the properties of the individual homeowners to recover costs for such maintenance responsibilities.

A. Open Space Permitted Uses. Permitted open spaces uses include the following:

1. Floodways and environmentally sensitive areas as defined by SMC 17.10;
2. Lands with slopes of 25 percent or more;
3. Utility easements;
4. Passive recreation uses including nature interpretive areas, bird watching facilities,

unimproved trails, and similar uses as approved by the director;

5. Drainage facilities, including any of the following:

- a. Unfenced detention, retention and wet ponds;
- b. Stormwater treatment wetlands;
- c. Stormwater infiltration trenches and bioswales that serve more than one dwelling; and
- d. Vegetated areas located above underground detention facilities.

B. Lands not included within lots to be developed and sold or dedicated for required public improvements may be recorded as open space tracts. Environmentally sensitive areas shall be protected as separate tracts or established as Native Growth Protection Areas with proper signage marked with native growth protection signs.

C. At least 75 percent of the required gross open space area shall be free of structures or other improvements from the ground to the sky.

D. Access for pedestrians shall be provided from all dwellings within a development to the open space areas through trails, sidewalks, pathways and other similar means of access pursuant to SMC XXXX.

E. Open space areas designated and protected in accordance with this title shall not include any portion of privately owned yards.

F. 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.

16.62.070 Payment in lieu of on-site recreation improvement.

A. In lieu of providing on-site recreation improvement, the applicant may pay a voluntary fee in addition to the park impact fee. A fee in lieu of on-site recreation improvements will be permitted when:

1. The applicant complies with the open space requirement per SMC 16.62.060; and

Commented [MC20]: Same comment as recreation areas section; depends on pedestrian connections code being developed.

2. The payment of the fee will provide greater benefit to the residents of the project by providing needed capital improvements to an existing park or for the development of a new park in the existing neighborhood or city.

B. The fee shall be based on the number of lots within the proposed subdivision. For subdivision over 10 lots the fees are calculated below:

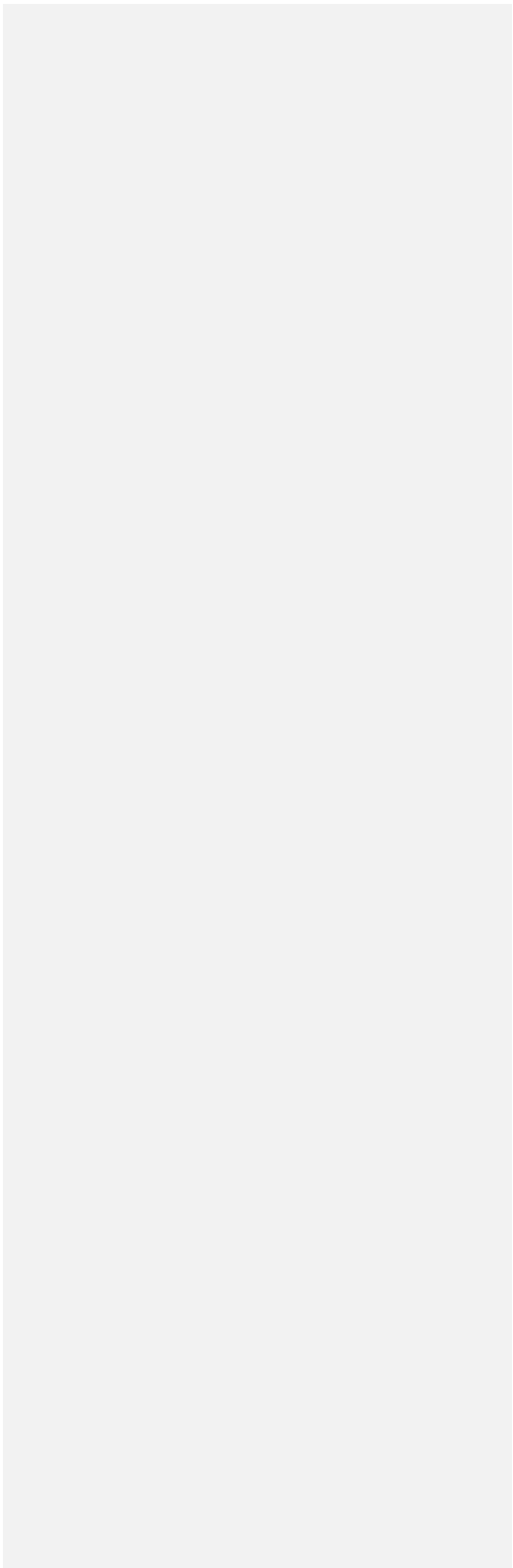
1. First 25 lots will be at a rate of \$1,500 per lot.
2. Lots 26 to 50 will be at a rate of \$1,250 per lot.
3. Lots 51 to 75 will be at a rate of \$1,000 per lot.
4. Lots 76 to 100 will be at a rate of \$750.00 per lot.
5. 100 plus lots will be at a rate of \$500.00 per lot.

C. Fee collected per the provisions of the section shall be used by the city for installation of capital improvements to an existing or new park in the existing neighborhood or city. Such fees shall be paid prior to final plat approval or divided among the lots and paid at time of building permit issuance.

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DRAFT Chapter 17.13 – Grading, Excavation and Land Filling

Sections:

- 17.13.010 Purpose.
- 17.13.020 Permit required.
- 17.13.030 Exemptions.
- 17.13.040 Prohibited excavation – Grading and filling.
- 17.13.050 Permit application.
- 17.13.060 Application review.
- 17.13.070 Performance standards.
- 17.13.070 Sureties.
- 17.13.080 Expiration of permit.
- 17.13.090 Permit fee.

17.13.010 Purpose.

The purpose of this chapter includes but is not limited to regulating the grading, excavation and filling of land in order to minimize erosion and sedimentation of watercourses and wetlands; minimize the need for and maintenance of drainage facilities; minimize adverse effects on ground and surface waters; minimize the potential for earth slides and slippage; and maintain the maximum natural vegetation.

17.13.020 Permit required.

A grading permit is required for grading, excavation or filling of land except as exempted in SMC 17.13.030.

17.13.030 Exemptions.

A grading permit is not required for:

- A. Excavation and grading in association with a building permit;
- B. Excavations for the study of soil and ground water conditions; or
- C. Landscape installation or site improvements which do not result in a fill placed behind a wall more than four feet in height or a cut more than four feet in depth or which does not exceed 50 cubic yards on any one lot.

17.13.040 Prohibited excavation – Grading and filling.

Excavation, grading or filling is prohibited within a designated critical area and/or a critical area buffer as defined by SMC 17.10 unless approved by the city engineer.

17.13.050 Permit application.

An application for a grading permit shall include the following unless otherwise approved by the city engineer:

- A. A completed, signed Development Permit Application on a form made available by the City of Sultan Planning Department, including the supplementary clearing and/or grading information as required;
- B. A map of the site which includes: topography, vegetation, wetlands and watercourses, public improvements, structures and rights-of-way or other easements and such features within 300 feet of the site;
- C. The names and addresses of all property owners and residents within 300 feet of the

Commented [MC21]: Form and code will need to be modified if this arrangement is desired

property;

D. A grading plan indicating the areas to be filled or excavated, the contours of the land after filling or excavating and the amount of material to be moved. Contours shall be depicted at two-foot intervals or as specified by the city engineer;

E. If material is to be imported from or exported to another location, the application shall include the location of the site, the route to be followed, and evidence of compliance with the regulations of the government with jurisdiction over the site to borrow from or receive material;

F. A plan for the control of erosion and water quality during and after the site work;

G. A plan for drainage of the site;

H. A plan for restoration of vegetation or landscaping on the site;

I. An estimate of the cost of the work to be undertaken;

J. A SEPA environmental checklist; and

K. Other such information as may be required by the city engineer, including traffic engineering and geotechnical or drainage studies as required in the most recent edition of the Stormwater Manual for Western Washington published by the Department of Ecology, adopted by reference in SMC 17.14.010.(D).

17.13.060 Application review.

A. The application for a grading permit shall be processed as a Type II permit in accordance with SMC 16.06 subject to the performance standards established in SMC 17.13.070.

B. The city engineer shall review all applications for grading permits.

Commented [MC22]: References proposed permit processing chapter also provided as part of this contract. This cross reference will need to be finalized/updated as code #'s change.

17.13.070 Performance standards.

A. Existing and proposed contours and retaining walls shall be shown on the preliminary and final landscape plans. All landscape berms or mounds shall also be shown with elevations on the grading plan submitted to the Public Works Department.

B. Graded slopes in planting areas shall not exceed a 3 horizontal (H): 1 vertical (V) slope in order to decrease erosion potential and to make maintenance easier.

C. Graded slopes planted with grass shall not exceed a 4(H): 1(V) slope.

D. On ungraded slopes equal to or greater than 2(H): 1(V), erosion control netting or alternative procedures shall be used to prevent erosion.

E. Planting areas shall be provided with adequate drainage.

F. During construction, areas disturbed for grading activities shall comply with the performance standards for stormwater management and erosion control as established in SMC 17.14.

Commented [MC23]: Please see memo for questions and discussion regarding the relationship between the grading permit, stormwater permit, and vegetation removal permit

G. Grading activities proposed within XX feet of a property line shall make provisions for protection of whatever portions of root zone protection areas of trees on neighboring properties or within the right of way may fall within the property/properties on which grading activities are

Commented [MC24]: City engineers will need to decide what the appropriate distance is for this to apply.

proposed. Root zone protection areas are subject to the provisions of SMC 17.16.030(D) – Vegetation Protection.

Commented [MC25]: This provision was added by LDC staff to address lack of protection for trees on neighboring properties identified in LCY analysis.

17.13.080 Sureties.

The city engineer may require, as a condition of the permit, a surety to be posted to secure the applicant's obligation to comply with the conditions of the permit. The surety may be up to 125 percent of the engineer's estimated cost of the work as defined in

17.13.090 Expiration of permit.

A grading permit shall expire six months from the date of issuance. The city engineer may grant one extension of time for an additional six months.

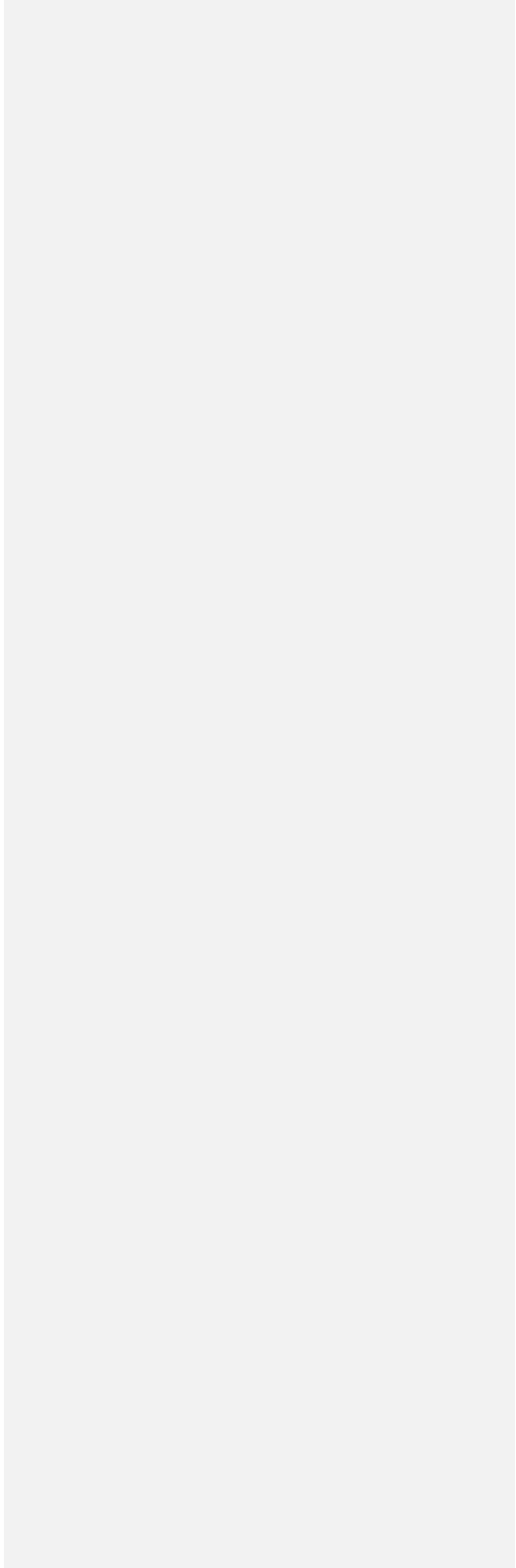
17.13.100 Permit fee.

- A. A permit fee is required as specified in the Sultan Fee Schedule, established by ordinance.
- B. Fees depend on the quantity of material proposed, defined as the cubic yards of proposed cut and the cubic yards of proposed fill. Fee will be generated based on the grading quantities reported in the Grading Permit section of the development permit application form.

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DRAFT Chapter 11.12 – Engineering Design and Development Standards

Sections:

11.12.010. Snohomish County Engineering Design and Development Standards (EDDS) Adopted.

11.12.020. Deviations to Construction Standards and Specifications.

11.12.020 Deviations to Construction Standards and Specifications.

Deviations to the EDDS may be granted by the Public Works Director when situations arise where alternatives to the standards may better accommodate existing conditions, overcome adverse topography or allow for more cost-effective solutions without adversely affecting safety, operations, maintenance or aesthetics pursuant to subsection (c) of this section.

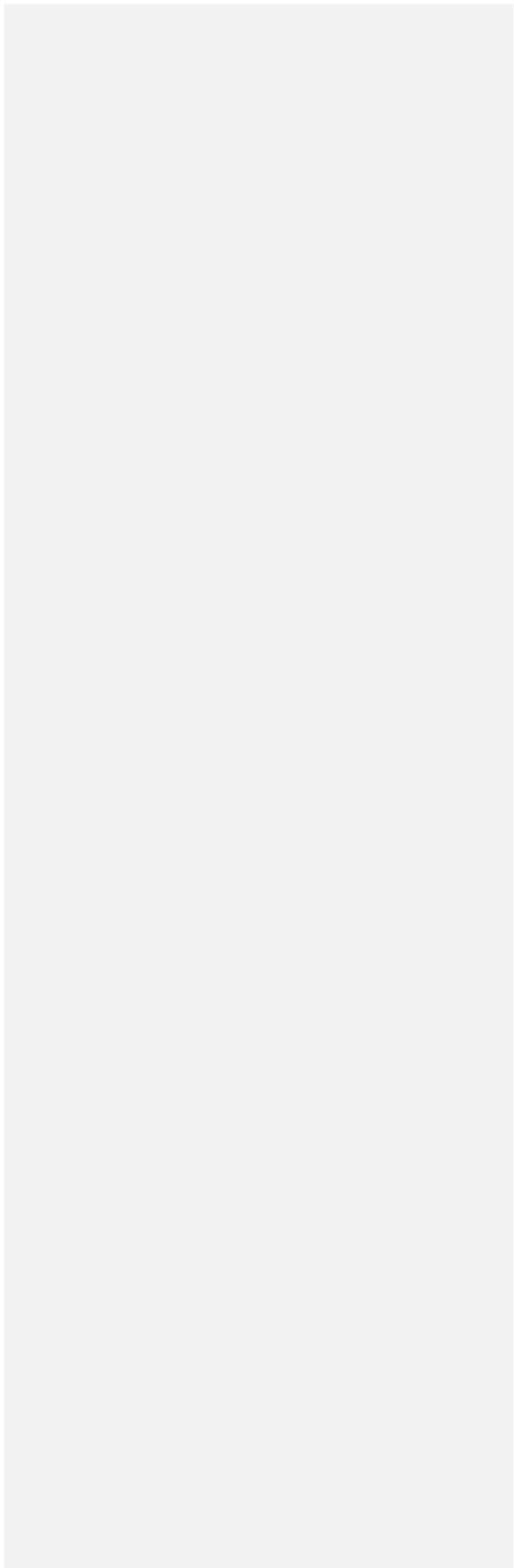
1. Unless otherwise specified in this title, deviations may only be granted for standards and specifications that relate to and implement the City's currently adopted EDDS.
2. Deviations shall be processed in accordance with the currently adopted EDDS at the time of construction permit submittal.
3. Requests for deviation shall, at a minimum, comply with the following criteria:
 - a. The deviation will achieve the intended result of the standards with a comparable or superior design and quality of improvement;
 - b. The deviation will not adversely affect safety or operations;
 - c. The deviation will not adversely affect maintenance and related costs;
 - d. The deviation will not adversely affect the environment; and
 - e. The deviation will not adversely affect aesthetic appearance.
4. An annual report of deviation requests shall be submitted to the City Council.

Amendment to Fee Schedule, Public Works Fees

Add language to address fee amount. NOTE: SnoCo is **\$1,390.50** as of March 2020.

(INSERT PDF OF EDDS DEVIATION PERMIT WHEN CONVERTING THIS DOCUMENT TO PDF)

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DRAFT Chapter 16.72 – Development Impact Fees

Sections:

- 16.72.010 Purpose.**
- 16.72.020 Scope.**
- ~~16.72.015~~ **030 Definitions.**
- ~~16.72.020~~ **Imposition of impact fees.**
- ~~16.72.040~~ **Use of funds.**
- ~~16.72.050~~ **Exemptions.**
- ~~16.72.060~~ **Impact fee calculation.**
- ~~16.72.030~~ **070 Calculation of park impact fee.**
- ~~16.72.040~~ **080 Calculation of traffic impact fee.**
- ~~16.72.090~~ **Independent fee schedules.**
- ~~16.72.100~~ **50 Assessment of impact fees. –Collection.**
- ~~16.72.110~~ **Independent fee calculations.**
- ~~16.72.120~~ **Impact fee credits.**
- ~~16.72.070~~ **Impact fee credits for other than traffic impact fees.**
- ~~16.72.080~~ **Traffic impact fee credits.**
- ~~16.72.090~~ **130 Adjustments, waivers, and appeals.**
- ~~16.72.100~~ **140 Impact fee fund.**
- ~~16.72.140~~ **150 Expenditures.**
- ~~16.72.120~~ **160 Refunds – parks and traffic.**
- ~~16.72.130~~ **170 Impact fee as additional and supplemental requirement.**

16.72.010 Purpose.

This chapter is enacted in accordance with RCW [82.02.050](#) and with the provisions of the Growth Management Act, Chapter [36.70A](#) RCW.

It is the purpose of this chapter to:

- A. To assess impact fees for parks and traffic within the City of Sultan;
- B. Ensure that adequate facilities are available to serve new growth and development;
- C. Promote orderly growth and development by requiring that new development pay a proportionate share of the cost of new facilities needed to serve growth; and
- D. Ensure that impact fees are imposed through established procedures and criteria so that specific developments do not pay arbitrary fees or duplicate fees for the same impact.

16.72.020 Scope.

A. The city shall collect impact fees as set forth in this chapter from any applicant seeking development approval from the city, for any development activity within the city where such development activity requires the issuance of a building permit or approval of site plan, development agreement, or long or short subdivision, except that nonresidential development shall not be assessed park impact fees.

B. Impact fees shall be collected from the applicant as set forth in SMC 16.72.100.

16.72.045030 Definitions.

The following definitions apply to this chapter:

- A. “Act” means the Growth Management Act, Chapter 17, Chapter 36.70A.
- B. “Applicant” means the named applicant on a development or building permit application and includes an entity that controls the named applicant, is controlled by the named applicant, or is under common control with the named applicant.
- C. “Building permit” means an official document of certification which is issued by the building official and which authorizes the construction, alteration, enlargement, conversion, reconstruction, remodeling, erection, demolition, moving or repair of a building or structure, as specified in the Uniform Building Code.
- D. “Capital facilities” means the facilities or improvements included in a capital budget.
- E. “Designated city official” shall be the public works director or his or her designee.
- F. “Director” means the city of Sultan city planner/planning (community development) director.
- G. “Fee payer” is the responsible party for a land use or construction permit for residential development.
- H. “Frontage” means that portion of the development property adjacent to an existing or future roadway where access to the site or individual properties is permitted by the city.
- I. “Frontage improvements” shall include all improvements as designed in the city comprehensive plan, city standards, or other adopted plan that can include roadway surfacing, curb and gutter, sidewalk, drainage, lighting, landscaping, and signs.
- J. “Impact fee” means payment of money imposed by the city of Sultan on the development of all residential improvements pursuant to this chapter as a condition of granting a land use permit and/or a building permit in order to pay for the park and transportation facilities and improvements needed to serve new residential growth and development. “Impact fee” does not include any permit fees, an application fee, the administrative fee for collecting and handling school impact fees, the cost of reviewing independent fee calculations, or the administrative fee required for an appeal pursuant to this chapter.
- K. “Impact fee account” means the account established for the parks and traffic for which impact fees are collected.
- L. “Impact fee account” means the account established for parks and traffic which impact fees are collected.

M. “Independent fee calculation” means the school impact calculation, and/or economic documentation prepared by a fee-payer to support the assessment of an impact fee other than the adopted fee schedule as adopted by city council.

N. “Interest” means the average interest rate earned by District No. 311 in the last fiscal year, if not otherwise defined.

O. “Land use permit” is a consolidated development approval or permit issued pursuant to the zoning code.

P. “Local access classified roadway” means the designated roadway cross-section as included in the city’s adopted standards, comprehensive plan, or a city area master plan.

Q. “Owner” means the owner of record of real property or the owner’s authorized agent.

R. “Project improvements” means site improvements and facilities that are planned and designed to provide service for a particular development project and that are necessary for the use and convenience of the occupants or users of the project, and are not system improvements.

S. “Residential development” means a house, apartment, mobile home, manufactured home, modular home or other dwelling unit used as a permanent or temporary place of residence.

T. “System improvements” means transportation capital improvements that are identified in the city’s latest adopted 20-year comprehensive plan and are designed to provide services to the community at large.

16.72.020 Imposition of impact fees.

~~A. Fee Required. The city shall collect impact fees as set forth in this section from any applicant seeking land use permit and/or building permit approval from the city for any residential or nonresidential development within the city limits.~~

~~B. Nonresidential Development. Applicants for nonresidential development shall be assessed a traffic impact fee calculated pursuant to SMC 16.72.040.~~

~~C. Residential Development. Applicants for residential development shall be assessed (1) a park impact fee calculated pursuant to SMC 16.72.030; and (2) a traffic impact fee calculated pursuant to SMC 16.72.040.~~

~~D. Mixed Use Development. If development for which application is made contains a mix of uses, the impact fees shall be assessed separately for each type of use. (Ord. 1244-16 § 3 (Exh. A))~~

16.72.040 Use of funds.

A. Impact fees collected for community parks and, transportation shall only be used in accordance with RCW 82.02.050.

B. Impact fees collected for transportation projects are further subject to the provisions of RCW 39.92.

16.72.050 Exemption(s).

A. The following development activities shall be exempt from the payment of all impact fees:

1. The impact fees imposed by this chapter shall not apply to Replacement of a residential structure within 12 months of the demolition or removal of the prior residence on the same site;
2. Alteration, expansion, enlargement, remodeling, rehabilitation or conversion of an existing dwelling unit where no additional units are created and the use is not changed;
3. Construction of accessory residential structures that will not create significant impacts on public facilities as determined by the Public Works Director;
4. Alterations of an existing nonresidential structure that do not expand the usable space;
5. Miscellaneous improvements, including but no limited to fences, walls, swimming pools and signs;
6. Demolition or moving of a structure;
7. Nonresidential new development will not be charged a community park impact fee; provided, however, that a nonresidential development may still be required to dedicate land for parks under the State Environmental Policy Act (SEPA), RCW Chapter 43.21C;
8. Construction of municipal or district facilities (school, fire, library, etc.);
9. Any other development or construction activity which falls within an exemption identified in this section, or any other section, or under other applicable laws, as determined by the Director.

16.72.060 Impact fee calculation.

Based on the information reviewed and discussed during the preapplication meeting, and as part of an application submittal, the applicant will provide requested information which may include:

- A. An impact fee calculation in accordance with the fee schedule as approved by city council;
- B. Where applicable, an independent fee calculation along with supporting traffic studies or other analytical requirements may be determined based on the results of the preapplication meeting;
- C. If applicable, a development credit calculation which itemizes the estimated value of any dedicated lands or improvements which the applicant has or will make as a condition of a subdivision or site plan approval. Dedicated lands or improvements must be identified as system-wide improvements in the City's Comprehensive Plan;
- D. The City's cost of administering the impact fee program shall be established by resolution.

16.72.030070 Calculation of park impact fee.

- A. Findings and Authority. The demand for parks and recreation facilities is proportionate to the size of the user population. The larger a population grows, the greater the demand for city parks and recreation facilities. In order to offset the impacts of new residential

development on the city's park system, the city has determined to adjust the current park impact fee consistent with city standards as new development occurs. Impact fees are authorized under the State Environmental Policy Act (SEPA) and the Growth Management Act (GMA) to help offset the cost of capital facilities brought about by new growth and development. Impact fees imposed will be used to acquire and/or develop parks, open space and recreation facilities that are consistent with the capital facilities and park and recreation elements of the Sultan comprehensive plan.

- B. Calculation of Park Impact Fee. The impact fee for parks and recreation facilities shall be calculated using the following formula:

$$\text{Fee} = (\text{T/P} \times \text{U}) - \text{A}$$

1. "Fee" means the park impact fee.
2. "T" means the total development cost of new facilities. Such costs shall be adjusted periodically, but not more than once every year.
3. "P" means the new population to be served.
4. "U" means the average number of occupants per dwelling unit.
5. "A" means an adjustment for the portion of anticipated additional tax revenues resulting from a development that is proratable to facility improvements contained in the capital facilities plan.

16.72.040080 Calculation of traffic impact fee.

The impact fee for roads and traffic infrastructure shall be calculated using the following formula:

$$\text{TIF} = \text{F} \times \text{T}$$

- A. "TIF" means the traffic impact fee.
- B. "F" means the traffic impact fee rate per trip in dollar amounts. Such rate shall be established by estimating the cost of anticipated growth-related roadway projects contained in the capital facilities plan divided by the projected number of growth-related trips, as adjusted for other anticipated sources of public funds. Such rates shall be adjusted periodically, but not more often than once every year, to reflect changes in the prevailing construction cost index, facility plan projects, and anticipated growth.
- C. "T" means the trip generated by a proposed development.

16.72.090 Impact fee schedules.

A. Park and traffic impact fees will be based on the Sultan Comprehensive Plan and supporting documentation. Traffic impact fees for residential uses shall be based on the type of residential use, single-family, multi-family, or mobile home. Traffic impact fees for non-residential uses will be based on the number of PM peak trips generated by the development.

B. The determination of the number of PM peak hour trips shall be made as follows: The applicant shall retain, at the applicant's expense, a traffic consultant approved by the city to establish the PM peak trip generation for the development. The Public Works Director shall review the consultant's report, request such additional information as may be needed to establish the trip generation and make a determination as to the traffic impact fee for the project. The applicant shall be notified in writing of the impact fee.

C. Park and traffic impact fees shall be set by resolution.

D. The impact fee schedule set out in accordance with this chapter and approved by resolution shall be reviewed by the city council as it may deem necessary and appropriate and/or in conjunction with the annual update of the capital facilities plan of the city's Comprehensive Plan.

E. Where the Hearing Examiner determines that there is a flaw in the impact fee program or that a specific exemption or credit should be awarded on a consistent basis or that the principles of fairness require amendments to this chapter, the Hearing Examiner may advise the city council as to any question or questions that the Hearing Examiner believes should be reviewed as part of the council's annual or other periodic review of the fee schedule as mandated by this chapter.

16.72.10050 Assessment of impact fees. – Collection.

~~A. Assessment. Except as otherwise provided in Chapter 16.76 SMC, the impact fees imposed by this chapter shall be assessed at the time a complete building permit application, or in the case of manufactured homes and installation permit application, is filed with the city. If the applicant feels the calculation of impact fees is improper, he or she may appeal the calculation in accordance with SMC 16.72.090, and the burden shall be on the applicant to demonstrate that the assessed impact fees do not benefit the proposed development or are not related to and assessed proportionately to the impacts of the proposed development.~~

A. Parks. The city shall collect impact fees for parks from any applicant seeking residential development approval from the city where such development activity requires final short or long plat approval, final binding site plan approval, or the issuance of a residential building permit or a mobile home permit. Nonresidential development shall not be assessed a park impact fee. Impact fees shall be collected from the applicant when the building permit is issued, using the fee schedule then in effect or as determined through a **development agreement**. There shall be no impact fees for Accessory Dwelling Units.

B. Traffic. The city shall collect impact fees for roads from any applicant seeking residential or commercial development approval where such development activity requires a short or long subdivision, site plan, development agreement, conditional use permit or the issuance of a residential or commercial building permit or mobile home permit. Impact fees shall be collected from the applicant when the building permit is issued, using the fee schedule then in effect or as determined through a development agreement. There shall be no impact fees for Accessory Dwelling Units.

~~C. B. Collection. Except as otherwise provided in Chapter 16.76 SMC, impact fees imposed by this chapter shall be due and payable at the time of issuance of a building permit, or in the case of manufactured homes at the time of issuance of an installation permit.~~

16.72.110 Independent fee calculations.

A. Parks and Traffic.

1. If the Public Works Director determines that none of the fee categories set forth in this chapter accurately describe or capture the impacts of the new development, he or she may conduct independent fee calculations and impose alternative fees on a specific development based on those calculations. For example, with respect to group homes, the fees imposed may take into account the size and number of residents proposed to be housed in such group homes, and the Public Works Director may determine the fees to be imposed based on this judgment of the approximate equivalent number of residents that would be generated compared to single-family dwellings.

2. If an applicant can demonstrate that none of the fee categories set forth in this chapter accurately capture the impacts of a new development, then the applicant may prepare and submit to the Public Works Director an independent fee calculation for the development activity for which a building permit is sought. The documentation submitted shall show the basis upon which the independent fee calculation was made.

3. While there is a presumption that the fees set forth by resolution by the City Council are valid for each form of development, the Public Works Director shall consider the independent fee calculation documentation submitted by the applicant. However, the Public Works Director is not required to accept any documentation which he or she reasonably deems to be inaccurate or unreliable and may, in the alternative, require the applicant to submit additional or different documentation for consideration. Based on the information in the Public Works Director's possession, the Public Works Director is authorized to adjust the impact fee calculation to the specific characteristics of the development activities, and/or according to principles of fairness.

16.72.070 Impact fee credits for other than traffic impact fees.

~~The developer shall be entitled to a credit against the applicable impact fee component for the present value of any dedication of land for improvement to or new construction of any system improvements provided by the developer (or the developer's predecessor in interest), to system facilities that are/were identified in the capital facilities plan and are required by the city as a condition of approval for the immediate development proposal.~~

~~The amount of credit shall be determined at the time of building permit issuance (or site plan approval where no building permit is required). A credit against the applicable impact fee shall be limited to the total amount of the applicable impact fee for the particular development. (Ord. 1244-16 § 3 (Exh. A))~~

16.72.080 Traffic impact fee credits.

~~The developer shall be entitled to a credit against the transportation impact fee component for the present value of any dedication of land for improvement to or new construction of any system improvements provided by the developer (or the developer's predecessor in interest) whenever a particular system improvement is a condition of approval or terms of a voluntary agreement. A credit shall be limited to the total amount of the transportation impact fee for the particular development.~~

The initial amount of credit shall be determined by the designated city official at the time of building permit issuance or site plan approval where no building permit is required. The final amount of the credit may be adjusted with the approval of the designated City official to reflect actual costs.

Calculating a transportation impact fee credit shall be determined as follows:

A. When a development frontage abuts a designated system improvement roadway, any credit for this roadway section will be reduced by the cost for the required frontage improvement. Land dedication shall be credited for any additional right-of-way dedication exceeding the local access classified roadway right-of-way standard.

B. Credit shall not be given for project improvements that are primarily for the benefit of the development users or occupants, or that are not located on the frontage when identified in a city adopted plan. This could include access walkways to schools, centers, and parks. This could also include roadway or safety improvements not identified as system improvements.

C. Credit for land dedication shall be determined by an appraisal conducted by an independent professional appraiser chosen by the developer from a list of at least three such appraisers approved by the city. The cost of the appraisal shall be borne by the developer and is not subject to a credit. The appraisal shall only value the land dedicated and not any alleged damages to any abutting property.

D. Cost for facility construction for system and project improvements shall be based upon a construction cost worksheet provided by the city and completed by the developer, or the city may require actual costs provided by the developer's contractor.

For any residential portion of development, credit shall be determined on a per dwelling unit basis. The credit per dwelling unit shall be determined by calculating the total impact fee credit for the residential portion of generated trips and dividing by the number of dwelling units. Credit will then be applied at the time of permit issuance for each dwelling unit.

No refund or future credit will be allowed in the event that the impact fee credit calculated or actual construction costs exceed the amount of the impact fee. (Ord. 1244-16 § 3 (Exh. A))

16.72.120 Impact fee credits.

An applicant can request that a credit or credits be awarded for the value of required dedicated land for system improvements, or for construction of system improvements, if the land and/or improvements constructed are identified in the current city capital facilities plan. Applicants for projects for which roads or parks fees have been collected by voluntary agreement or pursuant to the City's general platting authority, may request a credit for the amount of such fees paid.

A. Credits in General.

1. A credit shall be allowed only to the extent necessary to offset impact fees that would otherwise be charged to the development. The City is not liable to refund the developer any excess credit over impact fees.

2. Park impact credits may be applied only to park impact fees, and traffic impact credits applied only to traffic impact fees. Credits shall not be transferred from one property, project or development activity to another without approval of the Director.

B. Park Impact Fee Credits.

1. Pursuant to RCW 82.02.060(3), a credit against the applicable impact fee component for the value of any dedication of land for, improvement to, or new construction of any park system improvements provided by the fee payer, to facilities that are identified in the parks, recreation and open space plan of the comprehensive plan and that are required by the city as a condition of approving the development activity.

2. All land proposed to be conveyed to the city in exchange for a credit against impact fees shall meet all of the following requirements:

- a. The land must be conveyed free and clear of all liens and encumbrances;
- b. The land must be readily accessible to the general public;
- c. The land must have a site, size, and location consistent with a park system improvement described in the comprehensive plan; and
- d. The land must be suitable for the proposed park uses and for inclusion in the city's park system, as determined by the community development director.

The city may decide to accept land which does not meet all of these standards in unusual circumstances where the land to be conveyed provides a unique benefit, such as where the land has waterfront access, or provides significant open space or trail corridor.

3. The amount of the credit shall be the value of the land and improvements conveyed to the city; provided, that in no case shall the amount of the credit exceed the amount of the impact fee imposed on the development activity. If the value of the land and improvements exceeds the total park impact fees to be paid by the development, no impact fees shall be due. If the value of the land and improvements is less than the impact fees due, the developer will be required to pay the difference.

D. Traffic Impact Fee Credits.

1. An applicant may request a credit against the amount of impact fees otherwise applicable to a development activity for the total value of dedicated land, improvements, or construction provided by the applicant as a condition of development approval. Credits will apply only if and to the extent that the land dedicated, improvements provided, and/or facilities constructed are:

- a. For transportation facilities constituting system improvements that are funded in whole or in part by impact fees; and
- b. Located at suitable sites and constructed at an acceptable quality level as determined by the city.

2. The city engineer shall determine if a request for credits satisfies the criteria contained in subsection 1 of this section.

3. The value of credits for structures, facilities or other improvements shall be established by documentation provided to the city engineer by the applicant.

4. The value of a credit for land, including but not limited to right-of-way and easements, shall be determined on a case-by-case basis by an appraiser selected by, or acceptable to, the city engineer.

5. The cost of any appraisal under this section shall in the city's discretion either be (1) borne exclusively by the applicant, or (2) deducted from the otherwise-applicable impact fee credit.

6. After receiving the appraisal and/or improvement cost documentation from the applicant, the city engineer shall provide the applicant with a written statement setting forth the dollar amount of the credit, the basis for the credit, the legal description of any dedicated real property and a description of the development activity to which the credit shall be applied. The applicant shall sign and date a duplicate copy of said statement indicating his/her consent to the terms thereof and shall return the signed document to the city engineer prior to application of the impact fee credit. The applicant's failure to sign, date, and return said statement within sixty calendar days may nullify the credit.

7. No credit shall be given for dedications for, contributions toward or construction of project improvements.

8. If the amount of the credit is less than the calculated fee amount, the difference remaining shall be chargeable as an impact fee and paid at the time of application for the building permit. In the event the amount of the credit is calculated to be greater than the amount of the impact fee due, the applicant shall forfeit such excess credit.

9. In the event that the city adopts impact fees that are less than the amount determined in the rate study, and provided that the amount of the reduction is achieved by a discount or similar policy determination to reduce the fee without revising the underlying studies, data, or assumptions, then credits shall be given only in an amount by which the value of the credit exceeds the value of the discount used to adopt the impact fees.

10. Any request for a credit must be submitted in writing to the city engineer within sixty calendar days of the city's receipt of the building permit application for the underlying development activity. An applicant's failure to file a request by said deadline shall conclusively waive the applicant's entitlement to any such credit.

11. Determinations made by the city engineer pursuant to this section shall be subject to appeal pursuant to SMC 16.72.130.

E. School impact fee credits shall be administered as codified in SMC Chapter 16.74.080.

16.72.090130 Adjustments, waivers, and appeals.

A. Administrative Adjustment of Fee Amount.

1. An applicant for a building permit may, within 21 days of acceptance by the city of a complete building permit application, submit a letter to the city planning director requesting an adjustment to the impact fees imposed by this chapter. The director may adjust the amount or waive the entire fee, in consideration of studies and data submitted by the applicant and the district, if one of the following circumstances exists:

a. It can be demonstrated that the impact fee assessment was incorrectly calculated;

and/or

b. Unusual circumstances of the development activity demonstrate that application of the impact fee to the development would be unlawful, unfair or unjust.

2. To avoid delay pending resolution of the adjustment or appeal, impact fees may be paid under protest in order to obtain a development approval.

3. Failure to exhaust this administrative remedy shall preclude appeals of the impact fee pursuant to subsection (B) of this section.

B. Appeals of Decisions – Procedure.

1. The planning director's final impact fee determination and/or any mitigation requirements imposed pursuant to this chapter may be appealed in accordance with SMC [16.80.090](#).

2. At the hearing, the appellant shall have the burden of proof, which shall be met by a preponderance of the evidence. The impact fee may be modified upon a determination that it is proper to do so based on the application of the criteria contained in subsection (A) of this section. Appeals shall be limited to application of the impact fee provisions to the specific development activity and the provisions of this title shall be presumed valid.

16.72.400140 Impact fee fund.

Impact fee funds will be created and established under SMC Title [3](#). The finance department will establish separate accounts and maintain records for each type of impact fee.

16.72.440150 Expenditures.

Impact fees for system improvements shall be expended only in conformance with the capital facilities plan. Impact fees shall be expended or encumbered for a permissible use within 10 years of receipt, unless there exists an extraordinary and compelling reason for fees to be held longer than 10 years. Such extraordinary and compelling reasons shall be identified in written findings by the city planning board.

16.72.420140 Refunds – parks and traffic.

A. The current owner of property on which an impact fee has been paid may receive a refund of such fee if the city fails to expend or encumber the impact fees within 10 years of collection, or such greater time as may be established in written findings by the city planning commission documenting extraordinary or compelling reasons for extension beyond 10 years. In determining whether there has been an encumbrance, impact fees shall be considered encumbered on a first-in, first-out basis. The current owner likewise may receive a proportionate refund when the public funding of applicable service area projects by the end of such ten-year period has been insufficient to satisfy the ratio of public to private funding. The city shall notify potential claimants by certified mail (return receipt requested) deposited with the United States Postal Service at the last known address of each claimant.

B. The request for a refund must be submitted to the city council in writing within one year of the date the right to claim a refund arises or within one year of the date notice is given, whichever is later. Any impact fees that are not expended within these time limitations, and for which no application for refund has been made as herein provided, shall be retained and

expended on the indicated capital facilities. Refunds of impact fees under this subsection shall include any interest earned on the impact fees.

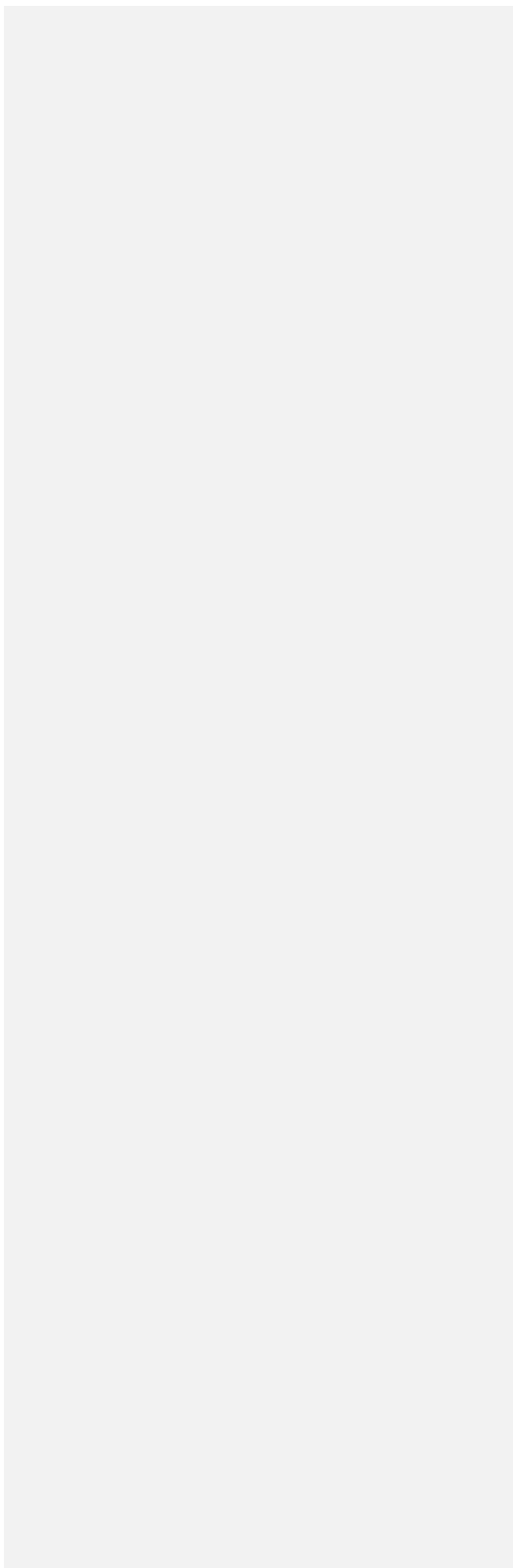
C. ~~A developer~~ The current owner of property for which impact fees have been paid, may request and shall receive a refund, including any interest earned on the impact fees, when the developer does not proceed with the development activity and no impact has resulted. City administrative costs to process the refund shall be deducted from the refund amount.

D. Schools. School impact fees shall be refunded as codified in Chapter 16.74 SMC and determined appropriate by the district

16.72.430~~170~~ Impact fee as additional and supplemental requirement.

The impact fee is additional and supplemental to, and not substitution for, any other requirements imposed by the city on the development of land or the issuance of building permits; provided, that any other such city development regulation which would require the developer to undertake dedication or construction of a facility contained within the city capital facility plan shall be imposed only if the developer is given a credit against impact fees as provided for herein.

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DRAFT Chapter 13.06 – Required Developer Utility Extension

Sections:

- 13.06.010. Purpose.**
- 13.06.020. Utility extension required.**
- 13.06.030. Property gaining access to utilities by development project extension of utility mains.**
- 13.06.040. Property connecting to water and/or sewer system where utilities are available without developer extension.**
- 13.06.050. Scope and exceptions.**
- 13.06.060. Utility developer extension agreement.**
- 13.06.070. Waivers.**

13.06.010 Purpose.

- A. The purpose of this chapter is to establish requirements of a property owner (“developer”) to extend and provide utilities to property within the city upon development.
- B. Furthermore, the purpose of this chapter is to provide adequate service connections for future development adjacent to developed property.

13.06.020 Utility extension required.

- A. Upon development of a property, the developer shall be required to provide utilities, including water, sewer and stormwater, to, within and extend to the limits of the property boundary in order to connect with existing systems during each phase of development.
- B. Utilities shall be designed and constructed to comply with all city-adopted design standards for water, sewer and stormwater utilities as either adopted by Sultan Municipal Code or adopted by reference.
 - 1. Water and sewer utilities shall comply with the Water and Sewer Engineering Standards adopted by reference through SMC 13.10.
 - 2. Stormwater utilities shall comply with the permitting requirements and performance standards established in SMC 17.14.040.
- C. All utility design plans submitted for review by the City shall be technically and financially feasible to accommodate the required utility connections to the city’s utility system.

Commented [MC26]: This section of code calls out standards from 2011 that are on file with the city clerk as the official standards. Suggest revising this section to account for any more recent or future updates/revisions to the standards to future-proof this section of code.

13.06.030 Property gaining access to utilities by development project extension of utility mains.

- A. When a developer extends public utility lines (water/sewer), making properties accessible to city domestic water or sewer services, responsibilities for individual line installation and connection fees shall be as follows:
 - 1. The developer shall provide water, sewer and stormwater utilities to the property line of every lot within the development.
 - 2. The developer shall provide water, sewer and stormwater to the property lines of all existing residences and businesses adjacent to the extension.
 - 3. Within the development itself, if the development includes residences or businesses, the developer shall make connection to the water, sewer and stormwater systems. If the development is for residential lots, each lot purchaser shall provide connection to city water and sewer, as located at the property line by the developer, when construction of any residences or businesses takes place.
 - 5. Actual connection to domestic water service at the property line and installation of the water meter shall be made by the city.
 - 6. The city shall inspect all utility connections before they are covered.
 - 7. Fees for connection in above situations shall be set forth in the annual city fee schedule.

8. Fees associated with the City of Sultan Stormwater Utility are to be calculated according to the provisions established in SMC 14.04.

13.06.040 Property connecting to water, sewer and stormwater system where utilities are available without developer extension.

The property owner shall provide service lines for water, sewer and stormwater between the residence/business and the property line.

A. Sewer Lines. The property owner shall provide a sewer line from the city sewer main to the property as well as the private lines on the property. The city will inspect all sewer connections before the work is covered. Connection fees for city sewer service are set forth in the current city fee schedule resolution.

B. Water Connections. The city shall provide water connection lines from the domestic water mains to the property line, and the city will make actual connection to the city water system. The property owner shall provide private water lines from the residence or business to the property line at the location of the meter. Connection fees for domestic water, including the cost of the meter for each service, are set forth in the current city fee schedule resolution.

C. Stormwater Connections. The property owner shall provide a stormwater line from the city stormwater system to the property as well as the private lines on the property. The city will inspect all stormwater connections before the work is covered. Stormwater utility fees are set forth in the current city fee schedule resolution. Requirements and sizing for stormwater utility elements shall conform to SMC 17.14.040.

13.06.050 Connections for all properties to utilities.

A. The city, as licensed domestic water distributor, shall make all actual connections at the property line to the domestic water system.

B. The city shall inspect all sewer connections before they are covered.

C. Water meters shall be the property of the city.

D. Water and sewer lines in the utility system within the public right of way and to the property lines are the property of the city.

E. Private water and sewer service lines, between the property line and the buildings being served, are the property of the property owner.

13.06.060 Utility developer extension agreement.

A. The city hereby authorizes owners of real property within the city to enter into agreements with the city for the extension of water, sewer and stormwater utilities to such real property and authorizes owners of real property within the city or without the city limits to enter into agreements with the city for the extension of water, sewer and stormwater facilities to such real property.

B. The owner of the property for which the improvements are being made shall enter into a utility developer extension agreement with the city, executed on behalf of the city by the city engineer upon a form provided by the city attorney, post a performance bond, provide insurance as required under the utility developer extension agreement, and pay an administrative fee as established by the taxes, rates and fees schedule adopted by ordinance, all other applicable administrative, inspection, and permit fees, and all actual costs to the city associated with the project in excess of the administrative fee, including but not limited to legal, engineering, consultant and planning fees, as set forth in the agreement.

C. Applicants for utility developer extension agreements shall be in compliance with all city ordinances, rules and regulations to be eligible for processing of their application. The agreement may authorize the city to provide design and construction administration services for the required public improvements with the owner/developer paying the costs and staff time.

NOTE TO CITY: *A formal utility developer extension agreement should be created to supplement the above code section. Examples include Bellevue, Sedro-Woolley, North Bend.*

13.06.070 Waivers.

A. The city public works director shall have the authority to waive the requirement for a full utility developer extension agreement for small public street and/or small public utility extension depending upon such factors as project size, risk, and such other objective factors as the public works director finds pertinent; however, such projects shall require a _____ permit pursuant to Chapter _____.

B. Examples of "small public street and/or small public utility extensions" for purposes of this section include, but are not limited to:

1. Constructing or replacing 100 feet or less of sidewalk and/or curb and gutter associated with a single-family residence;
2. Constructing or replacing less than 100 feet of public water, sewer, or stormwater facilities;
3. Replacing a driveway apron; or
4. Construction of 100 feet or less of sidewalk through the city's sidewalk construction-in-lieu program.

Commented [TH27]: Check if this exists or feasible with City.

DRAFT

DRAFT Chapter 19.30 – Required Infrastructure Improvements

Sections:

- 19.30.010. Construction standards adopted.**
- 19.30.020. Intention.**
- 19.30.030. Purpose.**
- 19.30.040. Scope and exceptions.**
- 19.30.050. General.**
- 19.30.060. Procedure.**
- 19.30.070. Criteria for requiring infrastructure improvements.**
- 19.30.080. Criteria for deferral of infrastructure improvements.**
- 19.30.090. Enforcement.**
- 19.30.100. Appeals.**

19.30.010 Construction standards adopted.

- A. The City hereby adopted the Snohomish County Engineering Design and Development Standards (EDDS) and all codes, standards, and provisions cited therein.
- B. Deviations to the EDDS are allowed subject to the conditions and fees established in SMC 11.12.

19.30.020 Intention.

It is intended that the construction standards shall become the base specifications and standards for the construction of and improvements to city infrastructure including: streets, alleys, sanitary sewer systems, water distribution systems, storm drainage systems, and other transportation, telecommunications and utility systems and associated appurtenances. It is also intended that the construction standards shall govern all permits for excavation and grading in the city and be applicable to the city's own projects for public works.

19.30.030 Purpose.

- A. The purpose of this chapter is to establish:
 - 1. The intention of the city to require each developer for a development permit ("developer") to construct or install reasonable infrastructure improvements; and
 - 2. Procedures to determine the nature, extent, and location of the required infrastructure improvements; and
 - 3. Criteria that will be used to determine the nature, extent and location of the required infrastructure improvements.
- B. The criteria established in this chapter do not satisfy or supersede additional requirements imposed by the city under other code provisions or the State Environmental Policy Act.

19.30.040 Scope and exceptions.

All development in the city will require infrastructure improvements as conditions of permit except when:

- A. The permit is to make additions, alterations, or repairs of less than _____ thousand dollars (\$____,000) in cost to any site, as that term is defined in the standards. This threshold amount shall be automatically adjusted annually by the percentage increase or decrease in the Washington State Department of Transportation Construction Cost Index; or
- B. The permit is to make additions, alterations or repairs of _____ thousand dollars (\$____,000) or more in cost to any site, such threshold amount to be subject to the automatic adjustment described in subsection (A) of this section, if the developer proves to the public works director or his or her designee ("director") that the additions, alterations or repairs will result in no adverse impacts to existing infrastructure; or
- C. The permit is to make wholly interior improvements within an existing structure.

Provided, however, that if a developer chooses to make any infrastructure improvements for a development permit that would otherwise be exempt, then such improvements shall be in compliance with the construction standards.

19.30.050 General.

The city shall require each developer not exempted by this chapter to install or otherwise provide for the following infrastructure improvements in compliance with the construction standards:

- A. Adequate rights-of-way and paved streets;
- B. Street lighting systems;
- C. Curbs, gutters, sidewalks, and landscaping;
- D. Storm drainage systems;
- E. Sanitary sewer systems;
- F. Domestic water and fire systems;
- G. Traffic control systems;
- H. Conduit for fiber optic systems.

19.30.060 Procedure.

A. *Generally.* After consultation with representatives of the departments listed in subsection (B) of this section, the director shall tentatively determine:

1. The nature, extent, and location of the infrastructure improvements that are to be provided within the criteria set forth in SMC 19.30.070;
2. Whether to require the developer to:
 - a. Install necessary infrastructure improvements; and/or
 - b. Pay a fee in lieu of construction; and/or
 - c. Execute and record a covenant to run with the land agreeing not to protest the formation of a local improvement district to finance any deferred infrastructure improvements required under this chapter; and/or
 - d. Provide plat or binding site plan guarantees as established in SMC 19.30.080 to secure the later construction of the required infrastructure improvements.

The director shall discuss the tentative determination with the developer in relation to the criteria of SMC 19.30.040. After any resulting modifications deemed appropriate by the director, the director shall inform the developer of the final determination.

B. *Interdepartmental review.* Before making the final determination required by subsection (A) of this section, the director shall consult with and may incorporate or modify the recommendations of representatives from the following departments of the city:

1. Police;
2. Fire;
3. Planning;
4. Building.

The director may consult with other city departments as appropriate. Department representatives shall use only the criteria in this chapter to formulate their recommendations.

19.30.070 Criteria for requiring infrastructure improvements.

The director shall use only the following criteria in making the determinations required by SMC 19.30.060(A)(1):

A. If the city council, through an approved plan or policy, has, by ordinance or resolution, established the nature, extent, and location of infrastructure improvements to be provided in the vicinity of the property for which the development permit is sought, the director shall require infrastructure improvements under this chapter consistent with the nature, extent, and location thereof as established by the city council.

B. If the city council has not established the nature, extent and location of infrastructure improvements in the vicinity of the property for which the development permit is sought:

1. The director shall require the appropriate infrastructure improvements if the director has first explored alternatives to requiring the developer to provide the improvements and has found these alternatives in his opinion not reasonably feasible, and if the director additionally finds any of the following:

- a. Similar infrastructure improvements already exist or are scheduled in the immediate vicinity of the property for which the development permit is sought;
- b. The proposed use of the property for which the development permit is sought necessitates the installation of the infrastructure improvements;
- c. The property for which the development permit is sought is located in close proximity to an activity center, defined as a park, school, commercial center, large multifamily development or any other public or private development where people or activities are concentrated, and that the required improvements will enhance access to this activity center and that it is in the best interests of the residents of the city to enhance access to this activity center;
- d. Physical characteristics of the property for which a development permit is sought, including but not limited to topography, slope, soil type, drainage pattern, or vegetation, necessitate the installation of infrastructure improvements;
- e. Infrastructure improvements are necessary to maintain water quality; or
- f. For any other reason, the infrastructure improvements are in the public interest. If the director requires infrastructure improvements under this subsection, the director shall make written findings and conclusions specifying the public interest that necessitates the improvements and the manner in which these improvements will fulfill this public interest.

2. The public works director shall require any infrastructure improvement to comply with the construction standards.

19.30.080 Criteria for deferral of infrastructure improvements.

The director may allow the developer to defer the construction of portions of the required infrastructure improvements where such improvements will result in only partial structures, where anticipated future development and/or planned city public works projects will result in more complete and logical systems, and where such deferral is otherwise in the public interest. Upon the determination of the director to allow deferral, the developer shall secure its contribution pursuant to the following requirements depending on the type of development permit sought.

A. Surety may be provided for deferral of certain infrastructure improvements required as part of a final subdivision plat approval in accordance with SMC 19.10.070.

B. Surety may be provided for deferral of certain infrastructure improvements required as part of a final short subdivision plat approval in accordance with SMC 19.14.070.

C. Surety may be provided for deferral of certain infrastructure improvements required as part of a final binding site plan approval provided that:

1. The improvements are not enumerated in SMC 19.18.160; and
2. The surety is provided to the City in accordance with the provisions of SMC 19.18.170.

19.30.090 Enforcement.

A. Infrastructure improvements and the conditions of any deferrals required by the director under this chapter shall be listed as conditions of approval and shall become part of the

approved development permit.

B. Procedure. The provisions required by the director under subsection (A) of this section shall be enforced as conditions of the approved development permits and otherwise as allowed by applicable law.

19.30.100 Appeals.

A. The determination of the director regarding the nature, location, and extent of infrastructure improvements shall be final, unless an appeal by the developer is made to the hearing examiner within fourteen (14) days after the director's determination. The appeal shall be in writing to the hearing examiner and filed with the public works department. The hearing examiner shall act on the appeal within sixty (60) days unless an extension thereto is agreed to, in writing, by the developer. The hearing examiner should review the decision of the director to assure compliance with this chapter, the general purposes of the comprehensive plan of the city as well as all adopted ordinances, resolutions and standards.

B. A fee of twenty-five dollars (\$25) shall be paid at the time of filing the written appeal. The appeal will not be accepted unless accompanied by full payment.

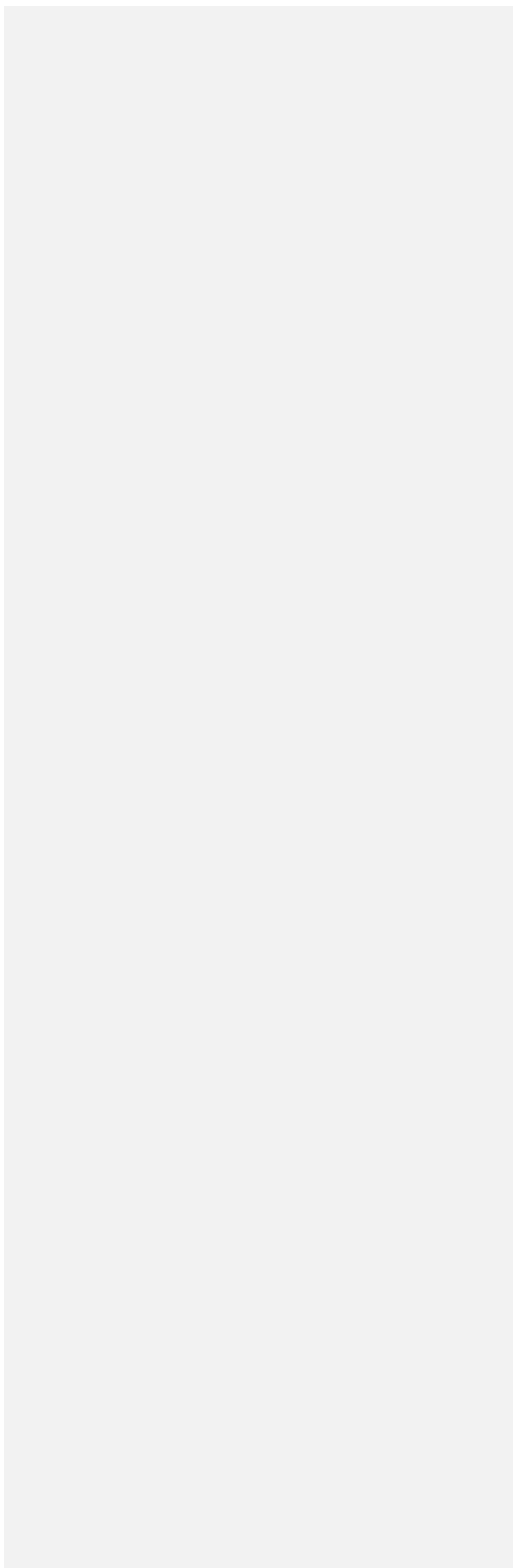
C. The decision of the hearing examiner may be appealed to superior court or other court of competent jurisdiction as provided by law pursuant to SMC 2.26.140.

D. Decisions of the director with respect to compliance with the construction standards shall be final with no administrative appeal.

DRAFT Chapter 12.## – ROAD STUBS

- A. Purpose
To provide new developments connections so that the long-term interests of the City and street network have both uniformity and continuity.
- B. The Public Works Director shall have authority to set the locations of road stubs, and associated connections.
- C. Developments shall provide road stub outs, easements, or other opportunity for future road connections. The interior street, sidewalk and connecting pathway network of the new development shall be designed to link up to those connections and provide a clear public path of travel for both vehicles and pedestrians.
- D. Variance:
Variances from road stub requirements will be at the discretion of the Public Works Director.

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DRAFT Chapter 12.## – Pedestrian Connections

A. Purpose.

The purpose of this section is to establish minimum standards for Pedestrian connections: to connect important element of the community and to improve the pedestrian environment; improve pedestrian connections to and from parks, neighborhoods, and transit stops; and to enhance pedestrian access by establishing minimum pedestrian connectivity standards.

B. All new development shall provide dedicated pedestrian connections to adjacent streets in the form of sidewalks or pathways.

C. Adjacent developments shall provide pedestrian connections to adjacent streets in the form of sidewalks or pathways.

D. Variance:

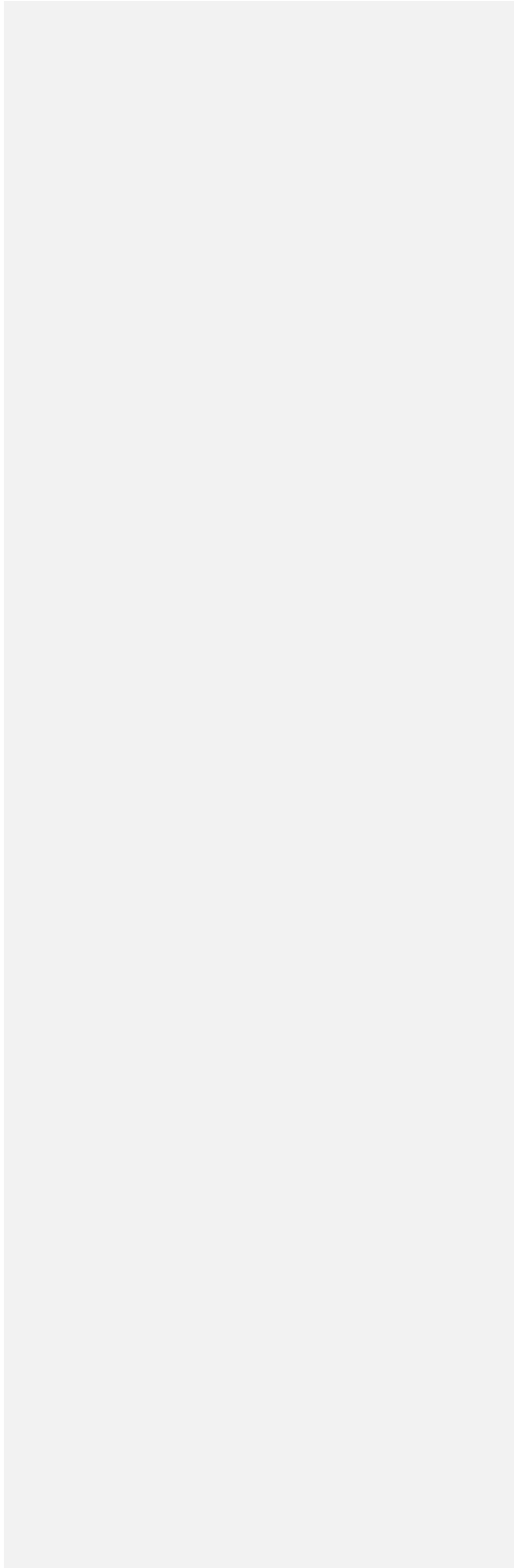
Variances from pedestrian connections requirements will be at the discretion of the Planning Director.

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Attachment D

LDC STAFF MEMO ON CODE CHAPTERS

DRAFT



DATE: April 24, 2020
FROM: Todd Hall, Planning Manager, LDC, Inc.
TO: Andy Galuska, Planning Director, City of Sultan
SUBJECT: Code Analysis – Progress, Questions Raised, and Next Steps

Background

Since early 2020, LDC, Inc. has been working with a student from the University of Washington's Livable City Year (LCY) program to provide support and guidance to a university student's comparative analysis and recommendations project for the City of Sultan. The analysis has included the following categories and code sections of the Sultan Municipal Code (SMC):

- Frontage Improvements: 19.10.070, 19.14.070, 19.18.160
- Utility Extension: 13.02.080
- Permit Tables: 19.22, 19.24, 19.26, 19.28 (*proposed new chapter: 16.06*)
- Recreation Facilities: 16.62
- Grading Permits: 17.16 as revised (*proposed new chapter: 17.13*)
- EDDS Deviation Permit: 19.14.070 and Ord. No. 1260-17
- Road Stubs: N/A (not currently in code)
- Pedestrian Connections: N/A (not currently in code)
- Impact Fee Credits: 16.72

LDC staff have used the LCY analysis as the basis for more detailed work on many of these categories. The following sections outline our progress thus far on Grading Permits, Recreational Facilities, Permit Tables, EDDS Deviation Requests, and Impact Fee Credits. This memo contains descriptions of our work on these sections, questions our work has generated that require feedback from the City, and recommended next steps to bring these code sections into alignment with the rest of the Sultan Municipal Code.

Grading Permit

Progress

The LCY analysis outlines the lack of a grading permit explicitly defined in city code and the considerations that should be attended to in drafting revised code. In particular, that analysis calls for a grading code with standards that are quantifiable and enforceable as well as details regarding adjacent properties and existing native vegetation.

Clearing and grading development sites and rights of way are related activities from the standpoint of development permitting. Upon further analysis of city code, SMC 17.16, Vegetation Protection Standards, and SMC 17.14, Stormwater Management Performance Standards, both contain descriptions of permits for review of activities that are regulated by these performance standards. Therefore, we propose modification of the general development permit application to accommodate clearing and/or grading

through an application revision/supplement, the addition of a chapter to Title 17, drafted as SMC 17.13 – Grading, Excavating, and Land Filling, to cover performance standards and specific application requirements, as well as the introduction of language into the new permit processing chapter LDC has drafted as part of this contract to reflect the existence of these performance permits.

Questions

1. Other communities studied as part of the LCY analysis include regulations of grading and clearing, vegetation removal, and stormwater management under their Buildings and Construction titles usually under the purview of the public works director and/or city engineer. Sultan's existing vegetation protection and stormwater standards are located under the Environment title, while much of the Buildings and Construction title have been repealed. Does the city definitely want to keep performance standards and permit requirements for these issues (as well as potentially grading and excavating as drafted) under Title 17, or would staff be amenable to moving them?
2. There is a pre-existing Vegetation Permit packet available from the city, but no Grading Permit packet. There is, however, a stormwater management permit described in SMC 17.14.040 but not delineated elsewhere in code or available on the city's website. In looking at the drainage performance standards in 17.14.040, this seems substantively similar to grading standards in other jurisdictions, or at least is related. Does the city have a preference on the language in 17.14.040 versus what we've presented in the draft chapter(s)?
3. Are there elements of the draft Shoreline Master Program the city was considering last year that affect grading performance standards?

Next Steps/Recommendations

- Modify Development Permit Application form to incorporate clearing (vegetation removal) and grading (including stormwater management?) permit info.
- Decide whether a stormwater management permit should exist apart from the proposed grading permit, and if not, incorporate requirements of stormwater permits into proposed grading permit chapter and SMC 16.06, as required.
- If Shoreline Master Program includes performance criteria relevant to grading, draft chapters should be updated to reflect these references.
- Move performance standard chapters under a different title, if the city decides that is the direction in which they want to go

Recreation and Open Space Standards

Progress

LDC staff have completed a draft of the revised Chapter 16.62, recreation and open space standards. Major changes proposed include altering and clarifying thresholds at which recreation areas and open space are required in new development, modifying the required open space areas to be based on percentage and square footage per unit instead of square footage per person, and adding references to the Sultan PROS Plan currently in the planning process. Additionally, a sub-section on payment of fees in lieu of recreation improvements was added.

Questions

1. Added language includes a minimum recreation area of 1,000 square feet. Snohomish County uses 700 square feet. Does the city want to use the rounded up number?
2. Our draft chapter eliminates the tables in the current code in favor of more general and open-ended description and standards, with references to the PROS Plan. Is there compelling reason (either as part of the PROS plan or some other reason) to keep those tables?

Next Steps/Recommendations

1. Evaluate per-unit and percentage-based recreation area and open space area requirements, respectively
2. Cross-check draft chapter with PROS plan
3. Cross-reference 16.06 or other new code sections as appropriate

Permit Tables

Progress

LDC has completed a draft "Permit Processing" chapter within the Zoning code (Title 16) rather than the Land Division code (Title 19), at the direction of the City.

This code section, tentatively named "16.06 – Permit Processing", contains four tables that summarize permits by action type, the decision making and appeal process, required procedures for applications by action type, and notice requirements for permit actions. It also provides several sections defining submittal, review, and decision requirements for Types I through IV; public notice requirements; requirements for consistency between SEPA and development regulations; appeal procedure details; and open record public hearing details.

These new sections have been derived from existing Sultan Municipal Code sections in Title 19 and Title 16, as well as Duvall Municipal Code Title 14.

The goals of this effort are to consolidate requirements for permit applications under one title and to provide clear and easy to understand reference charts.

Questions

Sultan's code has several gaps and organizational issues, some of which are outlined in the draft LCY analysis and some of which emerged or became clearer as more analysis and code writing was performed

on this subject. We are posing the following questions to the City of Sultan to gain clarity on these issues so that code writing can proceed.

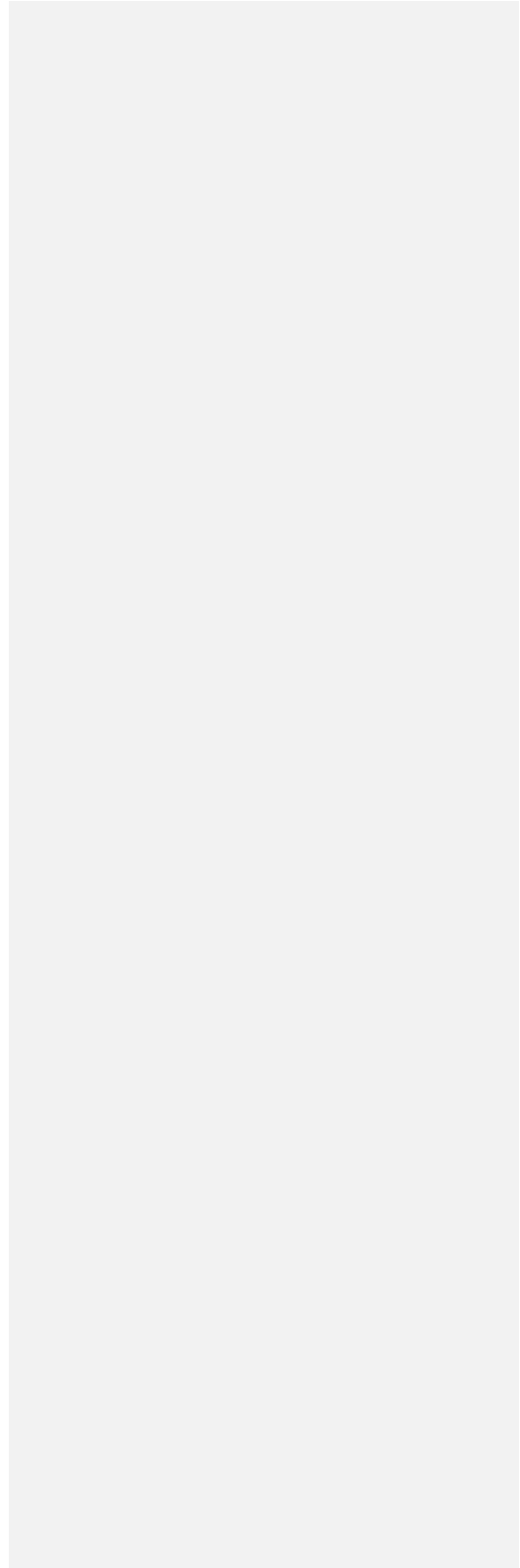
4. Development Agreements are mentioned in several places in code but are not defined anywhere. Does the City want to create Development Agreements as a separate permit type, or simply establish standards for them under a sub-heading elsewhere in code?
5. Shoreline permits are referenced within the Shoreline Master Program, including Shoreline Substantial Development Permits, Shoreline Exemptions, Shoreline Conditional Use Permits, and Shoreline Variances. However, these permits are not discussed or defined anywhere in the municipal code. Does the City want to introduce the language from the Shoreline Master Program on shoreline permits into elements of Title 16?
6. On a related question, will the City be adopting the draft SMP that was under consideration in 2019? Much of the permit language was edited and added for that draft revision to the current 2008 SMP, so we would want to make sure that any shoreline permits defined or categorized in the municipal code are done in concert with the revised SMP.
7. Grading and clearing are mentioned as actions under the Development Permits section of Chapter 16.80 SMC. However, the actual Development Permit form lists it as a Type I application, and the LCY analysis calls out the code for lacking an actual grading permit (typically a Type II permit in many other jurisdictions). Does the City want LDC to propose incorporating the elements of the development permit (grading, clearing, civil construction plan review) into the permit processing chapter? Note that this would involve drafting new code sections describing procedures and review criteria for new permits.
8. Relatedly, would the City be amenable to creating a master land use application form that would allow an applicant to pick which permit(s) they are applying for? For applications requiring a pre-application meeting (Type III and IV), the total range of permits needed for a project would be spelled out in the pre-application staff report. This would ease the burden of having to write and maintain separate applications for all the types of permits available.
9. Code mentions temporary use permits regarding mobile homes (15.14 SMC) and business license exemptions (5.04.060 SMC), but there is no permit form on the City's website and no mention of them in Title 16 or Title 19. From a land use standpoint, is the City interested in having a temporary use permit included in the permit processing section?
10. Is there a role for a Development Review Committee or the Planning Board in referral and review of any Type I through IV permit applications? The Planning Board is mentioned in Title 16 regarding legislative actions, but its role in any land use application reviews is unclear.
11. Does the City want to require publication and certification of notice as indicated under draft section 16.06.040 – Public notice?

Next Steps/Recommendations

- One of the largest discrepancies seen in the code thus far concerns final plats. According to Section 19.10.050, final plats are an administrative review, while according to Section 19.10.020, they are a Type IV action, which require a hearing examiner recommendation and final decision by the City council. We believe, based on our reading of the code, that Sultan intends final plats to be Type IV applications, but this information will need to be made consistent when the relevant sections are cross referenced with the new permit processing section.
- Given that the LCY analysis calls out a need for grading permits and provides some guidance, a logical next step would be to develop language within code for a clearing and/or grading permit.

- After that, *if* the City is amenable to creating a master land use application, a good next step might be to create a draft master application form that would incorporate portions of the work done thus far.

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EDDS Deviation Request

Progress

Currently, Sultan does not have a process whereby deviations to engineering standards are applied for and evaluated. Since the Sultan adopts the Snohomish County EDDS by reference, LDC has drafted Section 11.12.020, Deviations to construction standards and specifications, as well as a deviation application form, based on the Snohomish County format.

Questions

1. While this section update seemed relatively straightforward, is there any other expectations or details that the City would like added as part of this amendment?
2. What other details, if any, would the City like added to the draft EDDS deviation application.

Next Steps

There is no fee described in the new code. Public Works will need to determine an appropriate fee to recoup costs of reviewing applications, as allowed under state law, and it will need to be adopted into the fee schedule.

Impact Fee Credits

Progress

We have substantially revised Chapter 16.72 – Development impact fees – parks and traffic. In particular, the schedules, fee calculations, and fee credits are either entirely new or substantially revised to accomplish the goals outlined in the LCY analysis.

Questions

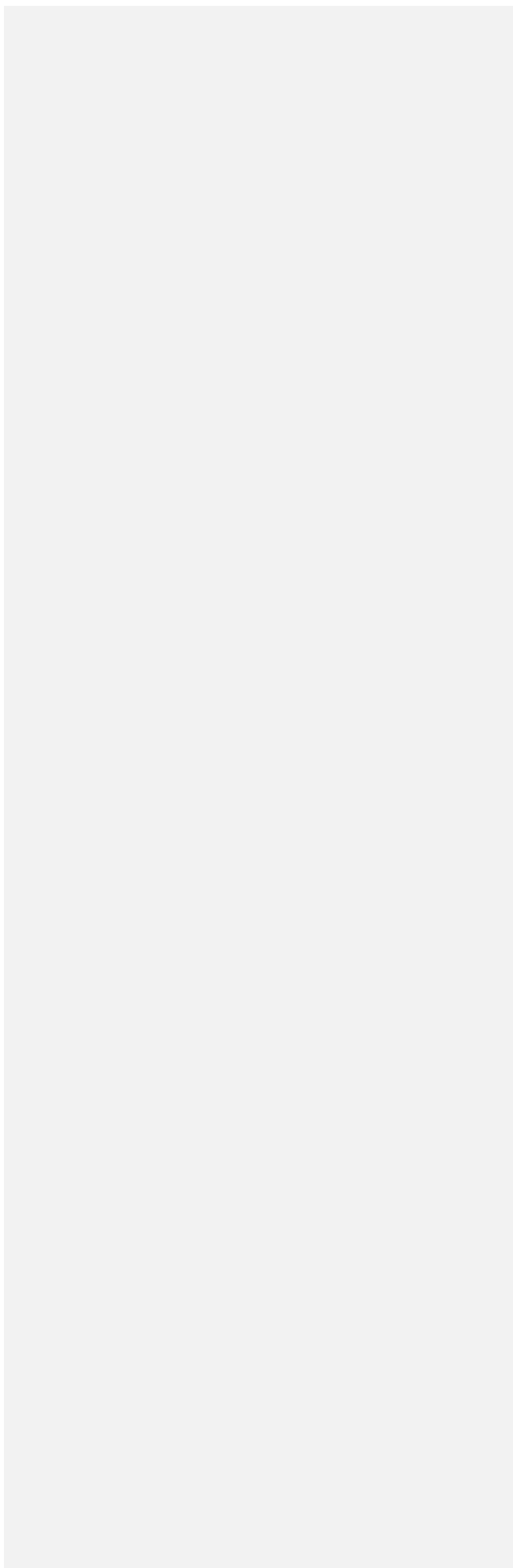
1. As part of this exercise, Sultan staff requested clarification as to what projects qualify for impact fee credits. LCY student noted the City collects park and impact fees, while Sultan School District collects and administers school impact fees. As a result, this code amendment does not address school impact fees. Does the City intend to also address school impact fees, Chapter 16.74?
2. Note new Section 16.72.050 Exemptions. Are there any other anticipated exemptions the City would like added to this list?
3. Sections 16.72.070 and .080 (renumbered but existing) outline the calculation of parks and traffic impact fees, respectively. These are not common sections in other City codes but can certainly be left here to provide clarity to staff and public. Does City want to keep these two sections or remove?
4. Since this Chapter refers to Comp Plan, is the Comp Plan up to date with regards to impact fees?
5. As noted in draft 16.72.100 Assessment of impact fees, no parks or traffic impact fees would be collected for ADUs. This is common in most cities. Assume this would also be the case in Sultan?
6. Independent impact fee calculations are an option for many cities. Would assume Sultan is amenable to this section as well?
7. Ensure that Chapter 16.72.070 Impact fee credits for other than traffic impact fees are ok to delete in its entirety. This section doesn't seem relevant anymore due to the addition of new parks section.
8. Any other anticipated impact fee credits under new Section 16.72.120 Impact Fee Credits? As noted above, school impact fees were not addressed in this amendment process, but noted in this section in subsection E.

9. Chapter 16.76 Impact fee referral was not amended. Assume City would like this section to remain as is, no amendments?

Next Steps

- City should review questions above and note corrections/additional actions as requested.
- Reference draft 16.06 appropriately when adopted

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Traffic Impact Fee Update

May 2020



Traffic Impact Fee: \$4,350



List of Projects and Project Costs Last Updated in 2011

Present State

Overview

Projects proposed with estimates of project costs and funding sources

Scheduled improvements for a ten year period

Typically not all projects get built in this period

Updated Project List

US 2 Improvements provide the most return on investment

Adding four east-west connector roads prioritized by cost and effectiveness

Adding additional projects on local roads as needed

Removed unnecessary and completed projects

Example Projects

US 2 and Old Owen/Fern Bluff Intersection

- Total Project Cost: \$7,000,000
- Growth Share of 21% (21% of the Proposed Capacity for new development)
- 79% of total cost to come from Grants (\$5.5 million)
- Total Cost from Impact Fee fund \$1,475,357
- Total Cost from City Sources \$0

Rice Road Reconstruction

- Total Project Cost: \$9,185,000
- Growth Share of 66% (2/3 of the Proposed Capacity for new development)
- No expected grant funding
- Total Cost from Impact Fee fund \$6,031,352
- Total Cost from City Sources \$3,153,648



Impact Fee: \$6,125 per Trip



City Share: \$1,571,262 (\$157,126 /yr.) for all projects



Construct connection from Gohr to 130th St SE/Sultan Basin Rd

Option 1: US 2
Projects and
One E/W
Connection

Option 1

US 2 improvements

- Old Owen/Fern Bluff
- 5th St/Mann Rd
- Roundabout and Ped Crossing at Main St
- Replace Wagley Creek Bridge to allow 4 lanes
- Widening of US 2

East West Connection from Gohr Rd to
130th St SE



Impact Fee: \$8,787 per trip



City Share: \$5,362,940 (\$536,294 /yr) for all projects

Option 2: US 2,
Two E/W
Connections,
Minor Local
Project

Option 2

All of the Option 1 Improvements except no US 2 widening

An additional East West Connection (8th St to 135th St SE/Bryant Rd)

Reconstruct Existing Roadways

- Rice Road
- Cascade View Drive
- Old Owen Road



Impact Fee: \$10,963 per trip



City Share: \$7,512,558 (\$751,256 /yr) for all projects

Option 3: US 2,
Two E/W
Connections,
Additional
Local Projects

Option 3

All of the Option 2
Improvements

Reconstruct Existing Roadways

- Sultan Basin Rd further north to UGA boundary
- Foundry Rd

Staff Recommendation

- Option 2
 - Balances the benefits of US2 improvements with local road needs
 - Two East West connections would improve connections for residents
 - Impact Fee increases but still within reason