

**CITY OF SULTAN
WASHINGTON
ORDINANCE NO. 1144-12**

**AN ORDINANCE OF THE CITY OF SULTAN, WASHINGTON
ADOPTING NEW SULTAN MUNICIPAL CODE TITLE 19,
“LAND DIVISION”, REPEALING SULTAN MUNICIPAL CODE
CHAPTER 16.14, LOT AVERAGING, IN ITS ENTIRETY, AND
REPEALING ORDINANCE 1079-10 IN ITS ENTIRETY SAID
ORDINANCE HAVING ADOPTED CHAPTER 16.14, AND
ADDING THE SUBSTANTIVE PROVISIONS OF SAID CHAPTER
16.14 TO THE PROPOSED TITLE 19 AS CHAPTER 19.44,
PROVIDING FOR SEVERABILITY, AND ESTABLISHING AN
EFFECTIVE DATE.**

WHEREAS, the Washington State Growth Management Act, Chapter 36.70A RCW, requires the City of Sultan to adopt a Comprehensive Plan; and

WHEREAS, in compliance with the requirements of Chapter 36.70A RCW the City of Sultan adopted a Comprehensive Plan in 2011; and

WHEREAS, in accordance with the Growth Management Act, it is necessary for the City’s land use codes to implement the Comprehensive Plan so as to achieve the Goals and Policies of the Plan; and

WHEREAS, review of the City’s Unified Development Code, Title 16 of the Sultan Municipal Code has been undertaken by the Planning Board and the City Council; and

WHEREAS, the Planning Board and City Council, being duly advised by staff have determined that the Unified Development Code is in need of significant revision to properly implement the Comprehensive Plan, and to be in conformance with current statutory and case law standards of the State of Washington; and

WHEREAS, the most immediate need in this revision process is to provide proper standards for land division processes, the current processes provided in Sultan Municipal Code (SMC) Chapter 16.28 having been recommended by staff, and found by the Planning Board to be difficult to administer and ineffective in implementation of the Goals and Policies of the Comprehensive Plan; and

WHEREAS, the Planning Board has recommended that the land division procedures be revised and updated in the form of a separate Title of the SMC to provide clarity and effective implementation for staff and the public; and

WHEREAS, the Planning Board and the City Council have jointly met and provided policy guidance on the proposed Land Division Code (Title 19, SMC) since the third quarter of 2010; and

WHEREAS, the Planning Board held a public hearing on adoption of the proposed Land Division Code on January 23, 2012, with no public testimony offered at said hearing; and

WHEREAS, the Planning Board, at its March 20, 2012 regular meeting, unanimously passed a motion recommending to the City Council that the new SMC Title 19, Land Division Code, be adopted by the Council, subject to a public hearing at the Council; and

WHEREAS, the Council held a public hearing on adoption of Title 19, Land Division Code, at its regular meeting of April 12, 2012; and

WHEREAS, it is appropriate to proceed with adoption of the new SMC Title 19, Land Division Code for the purpose of promoting the public health, safety, and general welfare through the regulation of the division of land into lots, tracts, parcels, sites or subdivisions for sale or lease, and to establish regulations and procedures for review and approval of land divisions or the revision thereof that are in conformance with the Comprehensive Plan, the Critical Areas Code, the Shoreline Master Program, the Concurrency Management Code, the Stormwater Utility standards, the Flood Damage Prevention Code, and other applicable design and development standards of the City of Sultan;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SULTAN, WASHINGTON DOES ORDAIN A FOLLOWS:

Section 1. Review of the Record. After reviewing the Planning Board's actions and recommendations regarding adoption of Title 19, Land Division Code, Council affirms the recommendation that the City of Sultan adopt a stand-alone Land Division Code as recommended by the Board and attached hereto as Exhibit A.

Section 2. Revision of Sections of Sultan Municipal Code. The City of Sultan Municipal Code is hereby amended to include the new Title 19, Land Division Code as presented in "Exhibit A" of this Ordinance.

Section 3. Repeal of Sultan Municipal Code Chapter 16.14. Sultan Municipal Code Chapter 16.14, Lot Averaging, is hereby repealed in its entirety.

Section 4. Repeal of Ordinance 1079-10. Ordinance 1079-10, adopting Sultan Municipal Code Chapter 16.14, Lot Averaging, is hereby repealed in its entirety.

Section 5. Adoption of Lot Averaging Provisions as Sultan Municipal Code Chapter 19.44. The substantive provisions of Lot Averaging, as provided in the Repealed Chapter 16.14, are added to Title 19 as Chapter 19.44 as provided in the final adoption version of Title 19, attached as Exhibit A.

Section 6. City clerk or designee authorized to edit code.

(A) The city clerk or designee shall provide for a uniform style and form of the Municipal Code by making minor corrections to ordinances submitted for filing which do not affect the sense, meaning, effect, or substance of any ordinance.

(B) Such changes are subject to the approval of the mayor and include: renumbering, relettering, capitalizing, punctuation, dividing provisions of the code, and correcting omissions or captions.

(C) The city clerk or designee may substitute a current title of an agency, bureau, commission, or committee, or commission to accord with changes of titles or duties enacted by law or ordinance.

(D) The city clerk or designee may substitute references to a title, chapter, or section of the Municipal Code to accord with changes of the Municipal Code enacted by ordinance.

Section 7. Severability/Validity. The provisions of this ordinance are declared separate and severable. If any section, paragraph, subsection, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this ordinance. The City Council hereby declares that they would have passed this ordinance and each section, paragraph, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, paragraphs, clauses or phrases were unconstitutional or invalid.

Section 8: Ratification. Any act consistent with the authority and prior to the effective date of this ordinance is hereby ratified and affirmed.

Section 9: Effective Date. This Ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.


ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 10th DAY OF May, 2012.

CITY OF SULTAN



Carolyn Eslick, Mayor

ATTEST/AUTHENTICATED:



Laura Koenig, City Clerk

Approved as to form:



Margaret J. King, City Attorney

Passed by the City Council: 5.10.12

Date of Publication: 5.21.12

Effective Date: 5.26.12

EXHIBIT A: ORDINANCE 1144-12

FINAL ADOPTION TEXT OF

SULTAN MUNICIPAL CODE

TITLE 19

LAND DIVISION CODE

Title 19
Land Division Code

Chapters:

- 19.02 General Provisions**
- 19.04 Construction and Definitions**
- 19.06 Subdivision - General Provisions**
- 19.08 Subdivision Preliminary Plat Procedures**
- 19.10 Final Subdivision Procedures**
- 19.12 Short Subdivision - General Provisions**
- 19.14 Short Subdivision Procedures**
- 19.16 Boundary Line Adjustments**
- 19.18 Preliminary Binding Site Plans**
- 19.20 Final Binding Site Plans**
- 19.22 Level I - Land Division Review Procedure**
- 19.24 Level II – Land Division Review Procedure**
- 19.26 Level III – Land Division Review Procedure**
- 19.28 Level IV – Land Division Review Procedure**
- 19.34 Public Notice Standards and Procedures**
- 19.36 Closed Record Decisions and Appeals**
- 19.40 Design Standards**
- 19.42 Public Facility Requirements**
- 19.44 Lot Averaging**

Chapter 19.02 GENERAL PROVISIONS

Sections:

19.02.010	Purpose
19.02.020	Applicability of provisions
19.02.030	Preapplication Conference.
19.02.040	Exceptions
19.02.050	Replats
19.02.060	Correction of platting errors
19.02.070	Time Limitations and Expiration of Preliminary Approval
19.02.080	Placing lots or parcels on assessment rolls
19.02.090	Administrative authority
19.02.100	Transaction Prior to Final Plat Approval
19.02.110	Appeal

19.02.010 Purpose.

The purpose of this Title is to promote the public health, safety and general welfare through the regulation of the division of land into lots, tracts, parcels, sites or subdivisions for sale or lease in accordance with the scope and purpose of this Title and to establish regulations and procedures for review and approval of land divisions or the revision thereof that are in conformance with the Comprehensive Plan, the Critical Areas Code, the Shoreline Master Program, the Concurrency Management Code, the Stormwater Utility Standards, the Flood Damage Prevention Code and other applicable Design and Development Standards of the City of Sultan.

This Title is intended to provide high-quality, well-designed neighborhoods that are considerate of the City's natural features. This Title implements the Comprehensive Plan Land Use Element by supporting and encouraging new residential development that is compatible with surrounding land uses and the natural environment.

19.02.020 Applicability of Provisions.

Every division of land for the purpose of sale, lease or transfer into lots, tracts, parcels, sites or subdivisions for sale or lease within the City shall proceed in compliance with the provisions of this Title.

19.02.030 Preapplication Conference.

A. Purpose

The purpose of a Preapplication Conference is for the prospective Applicant and City Staff to gain a common understanding of the nature of the contemplated development and subsequent development and any procedures, rules, standards and policies which may apply.

The prospective Applicant is encouraged to bring to the conference whatever information deemed appropriate to help describe the existing nature of the site and its surroundings and the proposed nature of the contemplated subdivision and subsequent development. Such information may include photographs, sketches and maps. The director or the prospective Applicant may request that an additional conference or conferences be held to further the purpose of this section.

B. Preapplication Conference Process.

1. Prior to the filing of a land division application, the Developer shall, except where specifically exempted by other provisions of this Title, apply for a Preapplication Conference on forms provided by the director along with fees as established by the City of Sultan Annual Fee Schedule.
2. The development review team shall advise the Developer as to procedure, conformity to applicable ordinances and development standards and applicable comprehensive plan policies.
3. Attendance and participation in a Preapplication Conference shall not vest an application. Vesting of an application shall only occur when a complete land division application has been submitted and accepted for review along with the applicable fee as provided by the City of Sultan Annual Fee Schedule.

19.02.040 Exceptions.

The provisions of this Title do not apply to the following:

- A. Cemeteries and other burial plots while used for that purpose;
- B. Division of lands into lots or tracts each of which is one one-hundred-twenty-eighth of a section of land or larger or five acres or larger if the land is not capable of description as a fraction of a section of land; provided, that for purposes of computing the size of any lot under this item which borders on a street or road, the lot size shall be expanded to include that area which would be bound by the centerline of the road or street and the side lot lines of the lot running perpendicular to the centerline;
- C. Divisions made by testamentary provisions, or the laws of descent;
- D. A division for the purpose of lease when no residential structure other than mobile homes or travel trailers are permitted to be placed upon the land when the City has approved a Binding Site Plan for the use of the land in accordance with local regulations;

19.02.050 Replats.

Replats are required when there is a further division of lots or tracts or the creation or relocation of lot, tract, street or boundary lines within a subdivision previously approved and recorded, except as allowed by Chapter 19.16, Boundary Line Adjustment.

- A. Replats of recorded plats shall meet all requirements for preliminary and Final Plats and shall be reviewed and processed in the same manner.
- B. When lots and/or tracts within a recorded plat are proposed for a replat, the application for a replat shall contain the signatures of a majority of owners of lots and tracts in the plat as provided by RCW 58.17.125, together with approvals by all financial institutions holding liens or encumbrances on such property.

19.02.060 Correction of platting errors.

Errors discovered in a recorded plat may be corrected by the City by recording a correction or errata notice with the county auditor. The owner shall designate the City as its attorney in fact for such limited purposes as required by this chapter. Such corrections shall not constitute a replat as described in 19.02.050.

19.02.070 Time limitations and Expiration of Preliminary Plat Approval.

As provided by RCW 58.17.140, preliminary subdivision plats approved under provisions of this title expire five (5) years from the date of said approval.

- A. Notwithstanding Item A above, preliminary subdivision approvals are valid for seven (7) years under the following conditions as provided by RCW 58.17.140 as effective until December 31, 2014;

Chapter 19.10

FINAL SUBDIVISION PROCEDURES

Sections:

- 19.10.010 Purpose
- 19.10.020 Review Process
- 19.10.030 Application Contents
- 19.10.040 Initial Review and Determination of Completeness
- 19.10.050 Administrative Review
- 19.10.060 City Council Action
- 19.10.070 Completion of Improvements – Surety
- 19.10.080 Final Plat – Dedications
- 19.10.090 Terms of Approval
- 19.10.100 Distribution and Filing
- 19.10.110 Transfer of Ownership
- 19.10.120 Building, Occupancy and Model Home Permits
- 19.10.130 Release of Improvement Guarantee
- 19.10.140 Survey Requirements
- 19.10.150 Lapse of Preliminary Approval

19.10.010 Purpose.

This chapter establishes specific application materials, review processes and requirements and terms of approval for final subdivision plats.

19.10.020 Review Process.

A Final Plat shall be reviewed in accordance with SMC 19.28 as a Type IV decision.

19.10.030 Application Contents.

A. Application

An application for final subdivision approval meeting all requirements of Chapter 58.17 RCW and this title shall be submitted to the director, accompanied by the following:

1. Application materials consistent with the requirements of this Chapter.
2. A copy of the approved preliminary plat;
3. A final subdivision plat meeting the requirements of Chapter 58.17 RCW, including certifications, dedications and title reports;
4. Agency recommendations pursuant to RCW 58.17.150;
5. Detailed construction plans, profiles and specifications for streets, utilities and other required improvements shall be provided to the director in a manner and form acceptable to the City Engineer. Improvement plans shall conform to Chapter 19.40, Development Standards and Chapter 19.42, Public Facilities Standard Plans and shall be made by or under the supervision of a Washington State registered professional engineer who shall stamp and sign all plans, profiles and specifications.

B. Survey Standards

A recordable survey and surveyor's signature meeting the requirements of Chapter 58.09 RCW and RCW 58.17.250;

C. Public Services List and Schedule

1. List of public improvements that will be completed prior to acceptance of the Final Plat application,
2. List of public improvements proposed to be incomplete at the time of Final Plat approval and the associated cost to complete the work. The list shall be used to determine the financial security required as part of the Final Plat review process.
3. The engineer's certification is required prior to setting the date for consideration by the City Council for Final Plat approval.

4. The engineer's certification will not be issued until the requirements of SMC 19.10.030 and 19.10.050 have been met.

D. Surveyor required

The Final Plat shall be prepared by a professional land surveyor licensed by the State of Washington. The preparer shall, by placing his or her signature and stamp upon the face of the plat, certify that the plat is a true and correct representation of the land actually surveyed by the preparer, that the existing monuments shown thereon exist as located and that all dimensional and geodetic details are correct.

E. Scale and Format

The Final Plat shall be drawn with reproducible ink on Mylar complying with standards of the Snohomish County recorder's office. The Final Plat shall be accurate, legible and drawn to an engineering (decimal) scale of 100 feet or fewer to the inch. If more than one sheet is required, an index sheet showing the entire subdivision with street and highway names and block numbers (if any) shall be provided. Each sheet, including the index sheet, shall be of the above-specified size. All signatures or certifications appearing on a Final Plat shall be in reproducible black ink.

F. Final Plat Contents

A Final Plat shall contain the information indicated for Subdivision Final Plats in Chapter 19.10.030 and 19.10.050.

G. Filing Fee

An application for a Final Plat shall be submitted with the applicable filing fee found in the City of Sultan City of Sultan Annual Fee Schedule.

H. Owner Certification and Dedications

1. A signed certification stating that the subdivision has been made with the free consent and in accordance with the desires, of the owner or owners.
2. If the plat includes a dedication, the certificate or a separate written instrument shall contain the dedication of all streets and other areas to the public, any individual or individuals, religious society, or to any corporation, public or private, as shown on the plat and a waiver of all claims for damages against any governmental authority which may be occasioned to the adjacent land by the established construction, drainage or maintenance of said street or other areas so dedicated.
3. Such certificate or instrument shall be signed and acknowledged before a notary public by all parties having any interest in the lands subdivided. An offer of dedication may include a waiver of right of direct access to any street from any property. Such waiver may be required by the City Engineer as a condition of approval.
4. Any dedication, donation or grant as shown on the face of the plat shall be considered as a quit claim deed for use for the purpose intended by the donation or grant.
5. At the discretion of the City Engineer conveyances of right-of-way may be required to be by statutory warranty deed.
6. The acceptance of right-of-way by the City shall not obligate the City to improve or develop the lands in the right-of-way;

I. Covenants and Restrictions

If the Developer proposes covenants and restrictions, the plat shall contain a provision stating that the covenants and restrictions are a private agreement between the Developer and property owners in the development and that the City is not a party to the covenants and restrictions and cannot be called upon by the owners to enforce provisions thereof.

J. Maintenance of required improvements

1. List of required commonly-owned facilities and improvements.

The face of the plat shall contain a listing of improvements that are a requirement of the plat approval that are to be supported and maintained on an ongoing basis by the home owners association. Examples of such facilities include trails and pedestrian pathways, commonly-owned retaining walls, natural growth protection areas, critical area buffers, stormwater management systems, playground/open space facilities, etc.

2. The plat shall clearly state that such facilities are a condition of the plat approval and that the homeowners association is responsible for ongoing financial support, operation and maintenance of said facilities to the satisfaction of the City.

3. The plat shall further clearly state that, failing appropriate financial support, operation and maintenance of said facilities, the City of Sultan is authorized to cause appropriate and necessary operation and maintenance of said facilities to be conducted by a third party contractor and that the costs of said contract and administrative fees associated therewith will be charged to the homeowners association and that the City may place liens against any and all properties in the development for the recovery of such costs.

K. Format for Certifications

Forms for the appropriate certifications of officials shall be provided on the face of the plat as follows:

1. FINANCE DIRECTOR'S CERTIFICATE

I hereby certify that there are no delinquent special assessments for which the property subject to this subdivision may be liable to the City and that all special assessments on any property herein contained dedicated as streets, alleys or for any other public use have been duly paid, satisfied or discharged, this _____ day of _____, 20____.

Sultan Director of Finance

2. CITY ENGINEER'S CERTIFICATE

I hereby certify that this Final Plat is consistent with all applicable City improvement standards and requirements in force on the date of preliminary plat approval, this _____ day of _____, 20____.

Sultan City Engineer

3. DIRECTOR'S CERTIFICATE

I hereby certify on this _____ day of _____, 20____, that this Final Plat is in substantial conformance with the preliminary plat and any conditions attached thereto, which preliminary plat was approved by Resolution Number _____ of the Sultan City Council on the _____ day of _____, 20____, as supported by the Decision of the Hearing Examiner for the City of Sultan dated the _____ day of _____, 20____.

Sultan Director

4. MAYOR'S CERTIFICATE

APPROVAL

Examined and approved this _____ day of _____, 20____, pursuant to City Ordinance Number _____, adopted by the Sultan City Council on the _____ day of _____, 20____.

Mayor

ATTEST:

Sultan City Clerk

- 5. A form for the certificate of the applicable Snohomish County finance division, as follows, or as otherwise required by the County, if different:

FINANCE DIVISION CERTIFICATE

I hereby certify that all property taxes are paid, that there are no delinquent special assessments certified to this office for collection and that all special assessments certified to this office for collection on any of the property herein contained dedicated as streets, alleys or for other public use are paid in full this ___ day of _____, 20____.

Manager

Deputy

- 6. A form for the approval of the Snohomish County Assessor, as follows:

ASSESSOR'S APPROVAL

Examined and approved this _____ day of _____, 20____.

County Assessor

Deputy County Assessor

Account number

- 7. A form for the certificate of the Snohomish County Recorder, as follows, or as required by the County, if different:

RECORDING CERTIFICATE

Filed for record at the request of the City of Sultan this _____ day of _____, 20____ at _____ minutes past _____ .M. and recorded in Volume _____ of Plats, page _____ Records of Snohomish County, Washington.

County Recording Number _____

Manager

Superintendent of Records

19.10.040 Initial Review and Determination of Completeness.

- A. Initial Review

Upon receipt of an application for Final Subdivision Plat Approval as described in 19.10.030 above, the Director shall have 28 days to review the application.

B. Acceptance

The application shall not be accepted for formal filing until issuance of a formal determination of completeness by the director.

19.10.050 Administrative Review.

A. City Council Schedule

When an Application for Subdivision Plat Final Approval has been determined to be complete as provided in 19.10.040 above, the director shall place the Final Plat on a Council agenda that allows for at least 10 working days of Staff review prior to the Council meeting. The Final Plat shall be reviewed by the Council within 90-days of the Determination of Completeness as provided in 19.10.040 above.

B. City Engineer Review

The director shall forward the plat and accompanying materials to the City Engineer and to other City directors for review. The City Engineer shall review the Final Plat and shall make findings in response to all of the following:

1. Sultan concurrency management issues as provided in SMC 16.108 for:
 - a. Transportation
 - b. Water
 - c. Sewer
 - d. Parks
2. City improvement standards and requirements in effect on the date of preliminary plat approval, including, but not limited to:
 - a. Stormwater Management
 - b. City of Sultan Design Standards and Specifications
 - c. Water System Plan
 - d. General Sewer Plan
 - e. City Water and Sewer Engineering Standards.

C. Director Review

Prior to filing the Final Plat for Council action, the director shall make findings in response to all of the following:

1. The Final Plat meets all standards established by state law and this code;
2. The City Engineer has completed review as provided in Item B above.
3. The plat and accompanying materials conform in all respects to the Preliminary Plat approval and conditions issued by the Hearing Examiner.
4. All components of utility, public service and transportation facilities required to be completed prior to Final Plat approval have been completed and approved by the City Engineer.
5. All components of utility, public service and transportation facilities allowed to be constructed after Final Plat approval have been guaranteed by surety acceptable to the City.
6. A Maintenance Bond acceptable to the City has been provided for all utility, public service and transportation facilities required to be guaranteed.
7. The proposed Final Plat bears the certificates and statements of approval required by law and all other components specified in Section 19.30, Table of Required Information.
8. A Title Insurance Report furnished by the Developer confirming that the title of the land in the proposed subdivision is vested in the name of the owners having a title interest and whose signatures appear on the plat's certificate;
9. The Developer has provided any required surety in a form acceptable to the City attorney in an amount commensurate with improvements required to be completed as described in Section 19.10.070.

D. Council Transmittal

Prior to the date at which the Council will consider the Final Plat, the director shall forward to the Council the original of the Final Plat, along with the planning agency's report which discusses the conformity or nonconformity of the Final Plat with:

1. The terms and conditions of the preliminary plat approval;
2. The requirements of Chapter 58.17 RCW and other applicable state laws in effect at the time of preliminary plat approval and
3. The requirements of this title in effect at the time of preliminary plat approval.

19.10.060 City Council Action.

A. Approval authority vested in City Council:

The City Council shall have sole authority to approve Final Plats. The Council shall approve, disapprove, or return to the Applicant for modification or correction, a proposed Final Plat, on the date of the meeting set for consideration of the Final Plat under Section 19.10.050, unless the Applicant agrees, in writing, to an extension of the time period provided by RCW 58.17.140.

B. Council Decision

1. If the Council finds that the subdivision proposed for Final Plat approval conforms to all terms of the preliminary plat approval and the said subdivision meets the requirements of Chapter 58.17 RCW, other applicable state laws and this title, which requirements were in effect on the date of preliminary plat approval, it shall direct and authorize the mayor to suitably inscribe and execute its written approval on the face of the Final Plat.
2. If the Council finds that the proposed final subdivision plat does not meet the conditions of the Hearing Examiner's decision and conditions of the preliminary plat and/or does not meet the standards of the applicable State Statutes, or local ordinances or development standards, the Council shall not approve the Final Plat.
3. Action to not approve a final subdivision plat as provided in Item 2 above shall be accompanied by findings indicating the standards not met and general direction regarding how those standards can be met if the Developer intends to proceed with submittal of a revised final subdivision plat application.

19.10.070 Completion of Improvements – Surety

As provided in RCW 58.17.130, required improvements not completed prior to Council approval of the Final Plat shall be secured to the City by a surety in an amount acceptable to the City subject to the following provisions:

A. Completion of basic infrastructure required

Surety shall not be allowed to stand in for completion of basic infrastructure necessary to make the development safe for construction of residences, operation of public utilities and delivery of emergency services. Infrastructure systems that must be complete prior to application for Final Plat are:

- a. Water Mains,
- b. Sewer Mains,
- c. Street section except for the final asphalt lift,
- d. Curb and gutter,
- e. Sidewalk,
- f. Native growth protection structures,

B. Infrastructure Available for Surety

The following may be proposed for deferred construction under surety according to this Section at the time of application for Final Plat approval:

- a. The final lift of asphalt,
- b. internal park and recreation amenities,
- c. pedestrian connections,
- d. Similar features not required for essential operation of the development and delivery of emergency services.

C. Street Trees.

For street tree installation as specified in Chapter 19.42 of this Title, the Developer agreement with accompanying surety shall include that the Developer will install all remaining street trees following the sale of fifty percent of the lots or three years from the date of Final Plat approval, whichever comes first.

19.10.080 Final Plat – Dedications.

No plat shall be approved unless adequate provision is made in the subdivision for the dedication or reservation of drainage ways, streets, alleys, easements, parks, playgrounds, sites for schools, school grounds and other general purposes as may be required by this Title, the Sultan Municipal Code, or the SEPA process. If any dedications are required, they shall be specifically identified on the plat document at the time of approval.

19.10.090 Terms of Approval.

A subdivision shall be governed by the terms of approval of the Final Plat and the zoning ordinance and regulations in effect on the date of preliminary plat approval for a period of five years, or seven years if applicable under Section 19.02.070 of this Title, after Final Plat approval unless the Hearing Examiner finds that a change in conditions creates a serious threat to the public health or safety in the subdivision.

19.10.100 Distribution and Filing.

The director shall distribute the original and copies of the approved Final Plat as follows:

- A. The original shall be forwarded to the appropriate county office for recording. The plat must be recorded within fifteen days or the plat shall become null and void. A recorded Mylar or digital copy of the recorded documents shall be returned to the City and kept with the City's records;
- B. Two paper copies shall be transmitted to the county assessor;
- C. One reproducible copy shall be retained in the files of the director;
- D. One reproducible copy shall be provided to the Applicant.

19.10.110 Transfer of Ownership.

See Section 19.02.100.

19.10.120 Building, Occupancy and Model Home Permits.

- A. No building permit for a structure other than a temporary contractor's office or temporary storage building shall be issued for a lot or parcel within an approved subdivision prior to a determination by the fire marshal that adequate fire protection for construction needs exists.
- B. No building permit for a structure other than a temporary contractor's office or temporary storage building shall be issued for a lot or parcel within an approved subdivision until:
 1. The minimum required improvements which will serve the subject lot or parcel have been constructed in accordance with SMC 19.10.070 A. and
 2. All remaining improvements have been financially guaranteed under the requirements of SMC 19.10.070 B and/or 19.10.070 C.
- C. Plat Conditions
Where a plat is approved subject to conditions, no building permit shall be issued for property subject to the subdivision prior to the conditions either being fulfilled or guarantees provided to ensure the conditions are met as required in SMC 19.10.070.

19.10.130 Release of Improvement Guarantee.

- A. If a financial security for improvements has been submitted under SMC 19.10.070 B 19.10.070 C., such guarantee shall only be released upon all of the following:
 1. Acceptance by the City of a properly executed bill of sale for such improvements;

2. Submittal of adequate record drawings for which the guarantee was submitted;
 3. Acceptance of such improvements by the City Engineer based on a determination that the improvements meet the standards required by the plat approval and any applicable City development standard documents.
- B. To ensure the adequate operation of required infrastructure improvements, a Maintenance Bond equivalent to 20 percent of the value of the required improvements shall be provided by the Developer to the benefit of the City as a maintenance guarantee for a minimum period of two year from the date the City Engineer certifies the completion of the plat improvements have been satisfied.

19.10.140 Survey Requirements.

- A. A licensed professional land surveyor shall complete all lot staking prior to the recording of the final subdivision.
- B. All lot corners, including interior lot corners, shall be marked with a permanent marker that bears the land surveyor's registration number. When the boundary lines follow a meandering line, the corners shall be set as directed by the City Engineer.
- C. When the legal description of the final subdivision utilizes partial or complete section subdivisional breakdown to establish the boundaries, section subdivision survey information shall be shown in accordance with the requirements of WAC 332-130-030.
- D. All reference monuments used in the establishment of the final subdivision corners shall be identified, described and noted as set or found. When appropriate, the survey shall reference previous surveys that served as the basis for the survey.
- E. When the final subdivision is adjacent to a constructed public right-of-way and the plat corners or its offset represent a quarter corner, section corner or donation land claim that is not of record or has been lost (or obliterated), a standard monument shall be placed.
- F. Whenever a final subdivision is adjacent to existing right-of-way, the centerline of the right-of-way shall be located on the plat drawing. If the constructed improvements fall outside of the documented right-of-way, the surveyor shall identify the existing edge of the pavement and limits of the maintained right-of-way section on the drawing and show its relationship to said centerline.
- G. All requirements of Chapter 58.09 RCW and Chapter 332-130 WAC governing minimum standards for land boundary surveys shall be met and a note shall be placed that reads:
THIS SURVEY COMPLIES WITH ALL THE STANDARDS AND GUIDELINES OF THE "SURVEY RECORDING ACT" CHAPTER 58.09 RCW AND WAC 332-130.
- H. The side lot lines of each lot, which if extended would intersect with the curb shall be marked on the curb.

19.10.150 Lapse of Preliminary Approval.

Preliminary Approval of a subdivision plat shall lapse and become void in the case of any of the following:

- A. The Applicant fails to submit an application for a final subdivision plat approval as provided by Section 19.02.070 of this Title.
- B. The Applicant fails to submit a revised Final Plat within 180 days in response to a Staff determination that the final subdivision plat application submittal does not meet the requirements for a determination of completeness as provided in Section 19.10.030 above, or in response to a Staff determination that the application does not meet requirements for a recommendation of approval to the City Council as provided in Section 19.10.050 above.
- C. The Applicant fails to submit a revised Final Plat within 180 days in response to a City Council determination that the final subdivision plat application submittal does not meet the requirements for Council approval as provided in 19.10.060 above.

Chapter 19.12 SHORT SUBDIVISIONS - GENERAL PROVISIONS

Sections:

- 19.12.010 Applicability of Provisions
- 19.12.020 Exceptions
- 19.12.030 Redivision of Platted Lots
- 19.12.040 Withdrawal of Short Plat
- 19.12.050 Administrative Authority

19.12.010 Applicability of Provisions.

Every division of land for the purpose of sale, lease or transfer into four or fewer lots, parcels or tracts within the City shall proceed in compliance with Chapter 19.12 and 19.14 this Title.

19.12.020 Exceptions.

The provisions of this title do not apply to the following:

- A. Cemeteries and other burial plots while used for that purpose;
- B. Division of lands into lots or tracts each of which is one one-hundred-twenty-eighth of a section of land or larger or five acres or larger if the land is not capable of description as a fraction of a section of land; provided, that for purposes of computing the size of any lot under this item which borders on a street or road, the lot size shall be expanded to include that area which would be bound by the centerline of the road or street and the side lot lines of the lot running perpendicular to the centerline;
- C. Divisions made by testamentary provisions, or the law of descent;
- D. Divisions of land into lots or tracts classified for industrial or commercial use, when the City has approved a Binding Site Plan for the use of the land in accordance with its local regulations; provided, that when a Binding Site Plan authorizes a sale or other transfer of ownership of a lot, parcel, or tract, the Binding Site Plan is filed for record in the county auditor's office on each lot, parcel, or tract created pursuant to the Binding Site Plan; provided further, that sale or transfer of a lot, parcel, or tract in violation of the Binding Site Plan, or without obtaining Binding Site Plan approval, is considered a violation of this chapter and a violation of RCW Chapter 58.17 and shall be restrained by injunctive action and be illegal as provided in this chapter and RCW Chapter 58.17;
- E. A division for the purpose of lease when no residential structure other than mobile homes or travel trailers are permitted to be placed upon the land when the City has approved a Binding Site Plan for the use of the land in accordance with local regulations;
- F. A division made for the purpose of adjusting boundary lines which does not create any additional lot, tract, parcel, site, or division, nor create any lot, tract, parcel, site or division which contains insufficient area and dimension to meet minimum requirements for width and area for a building;
- G. A division which is made by subjecting a portion or a parcel or a tract of land to RCW Chapter 64.32, Condominiums, if the City has approved a Binding Site Plan for all such land.

19.12.030 Redivision of Platted Lots.

- A. Redivision of Short Plat Prohibited
As provided in RCW 58.17.060, a parcel of land in a short subdivision shall not be further divided by short subdivision procedures for a period of five years, except as provided in B. or C. below.
- B. Original Short Plat to be Increased to Four Lots
When the original short subdivision contains fewer than four lots, filing of an additional short subdivision application within a five-year period to create up to a total of four lots

within the original short subdivision boundaries is permitted when consistent in all respects with the then-current regulations of the City.

C. Original Short Subdivision to be Increased to Five Lots or More

1. Land within an approved short subdivision shall not be further divided into more than four lots for a period of five years from the date of approval of the short subdivision without the submission and approval of a final long subdivision pursuant to all provisions of this title concerning the subdivision of land into five or more lots, tracts, or parcels as required by the then-current Chapters 19.08 and 19.10 of this Title.

19.12.040 Withdrawal of Short Plat.

Where there have been no dedications to the public and no sales of any lots in a short subdivision, a Developer may completely withdraw his entire short subdivision and thereafter present a new application. Such new application shall be subject to the then-current regulations of the City including fees as required by the City of Sultan Annual Fee Schedule for Short Subdivision applications.

19.12.050 Administrative Authority.

The City Administrator and the Director are responsible for processing and approving or denying proposed short subdivisions as provided for Level II applications in Section 19.24 of this title.

Chapter 19.14 SHORT SUBDIVISION PROCEDURES

Sections:

- 19.14.010 Requirement to Undertake Short Subdivision Procedures
- 19.14.020 Application Requirements
- 19.14.030 Determination of Completeness, Resubmittal and Expiration of Application
- 19.14.040 Public Notice of Application Process
- 19.14.050 Administrative Review
- 19.14.060 Notice of Decision
- 19.14.070 Short Subdivision improvements – Surety – Time Limit – Maintenance Bond
- 19.14.080 Short Subdivision Survey and Dedication Requirements
- 19.14.090 Survey Requirements
- 19.14.100 Short Plat Final Approval – Recording

19.14.010 Requirement to Undertake Short Plat Procedures.

Subject to the exception for contingent sales and escrows in RCW 58.17.205, when a short subdivision is proposed, the Developer shall apply and secure approval of the proposed short subdivision in accordance with the following procedures before the sale of any lot and before the issuance of any permit for the erection of a structure within the proposed short subdivision.

19.14.020 Application Requirements.

A. Preapplication Conference.

1. Prior to the filing of a short subdivision application, the Developer shall apply for a Preapplication Conference as provided in Section 19.02.030 of this Title.
2. The development review team shall advise the Developer as to procedure, conformity to applicable ordinances and comprehensive plan policies.
3. Attendance and participation in a Preapplication Conference shall not vest an application. Vesting of an application shall only occur when a complete short subdivision application has been submitted and accepted for review along with the applicable fee as provided by the City of Sultan Annual Fee Schedule.

B. Development Authorization Required.

1. Short plats require a Level II review and decision process as provided by Chapter 19.24 of this Title.
 2. As provided in WAC 197-11-800 (6), short subdivisions dividing land into fewer than five lots, tracts, parcels, sites or division for the purpose of sale, lease, or transfer of ownership shall be categorically exempt from SEPA threshold determination requirements, except as otherwise provided in WAC 197-11-305 and 197-11-800 as determined by the director.
- C. Application for Short Subdivision.
- Application for Short Subdivision approval shall consist of the following:
1. Two completed short subdivision applications forms signed by the property owner(s) or authorized agent;
 2. Five copies and one reproducible copy each of the short subdivision map, supplementary map, utility and/or road plan, profile and cross-section drawings in accordance with currently adopted engineering standards.
 3. The appropriate filing fee as provided by the City of Sultan Annual Fee Schedule; any City Engineering or inspection time incurred after tentative approval has been granted as part of the review and approval of the short subdivision shall be paid for prior to final approval according to the City of Sultan Annual Fee Schedule;
 4. Two copies of the short plat certificate in accordance with currently adopted short subdivision specifications; and
 5. A SEPA Environmental Checklist and accompanying fee, as provided by the City of Sultan Annual Fee Schedule, is required for short subdivision applications in cases where the Director determines that the short subdivision is not categorically exempt from SEPA review. A determination of SEPA applicability to a short subdivision application by the Director shall be made in writing with findings indicating the basis for requirement of a SEPA Environmental Checklist.
 6. A mailing list of property owners within 300 feet of the subject property shall be provided based on documented current title company records along with the mailing list review fee as provided by the City of Sultan Annual Fee Schedule.

19.14.030 Determination of Completeness, Resubmittal and Expiration of Application.

- A. The Developer shall submit the application to the Director along with the appropriate fees.
- B. Within 28 working days of the date of receipt of either an application or resubmitted and/or additional information, the director shall determine if the application is complete and accurate for the purposes of vesting.
- C. The City shall, within twenty-eight working days of receiving an application mail a written notice to the Applicant providing one of the following:
 1. A determination of completeness; or
 2. A determination of incompleteness and a statement(s) regarding what is necessary to make the application complete.
- D. The application shall not be accepted for formal filing until issuance of a formal determination of completeness by the director.
- E. Resubmittal
 - A. Resubmittals with the necessary information making the application complete within 90 days of original filing will not be subject to additional filing fees.
 - B. Resubmittals between 90 days and six months of notification to provide additional information that are returned with the information that makes the application complete will be charged additional fees as provided by the City of Sultan City of Sultan Annual Fee Schedule.
- F. Expiration of Application.

Failure to resubmit a complete application responding to all requirements and standards of the determination of incompleteness or inaccuracy within six months of the notification of such determination shall result in expiration of the application. Any subsequent

application for subdivision of the subject property shall be subject to a new application process and all fees applicable to a preliminary subdivision application.

19.14.040 Public Notice of Application Process

Notice shall be provided as required for Level II process in Chapter 19.34 of this Title.

19.14.050 Administrative Review.

The director shall consider the application materials, the development review committee recommendations and any public comments submitted on the proposal and determine whether the proposal conforms to policies, standards and accepted design principles for the following:

- A. Consistency with the comprehensive plan and municipal code;
- B. Appropriate provisions for the factors enumerated in RCW 58.17.110 within and around the proposed short plat;
- C. Adequate means of ingress and egress to the proposed lots in accordance with the provisions of this code;
- D. Plans and design for all road and utility improvements required by this Title, the City's engineering standards and other applicable development standards;
- E. Compliance with the Critical Areas Regulations and Shoreline Master Program as appropriate;
- F. Compliance with the Park Recreation and Open Space Plan, Concurrency Management Standards, Transportation plan, Stormwater Management Program and all other components and appendices to the Comprehensive Plan;
- G. Mitigation of probable adverse environmental impacts as determined by the SEPA review process when applicable.

19.14.060 Notice of Decision.

See Notice Provisions of Section 19.34.110.

19.14.070 Short Plat Improvements – Surety – Time limit - Maintenance Bond.

- A. Public facility improvements which may be required in short subdivisions shall be completed prior to final short plat certification and recording except when surety is provided according to the provisions of this section.
- B. Essential improvements for vehicular transportation, emergency service access and storm water management shall be completed prior to final approval of the short subdivision and shall not be deferred under a surety program.
- C. The City may allow a Developer to provide surety for sidewalks, street lights and other required improvements not listed in Item B above.
- D. Surety for short subdivision improvements shall be accompanied by engineered improvement plans and adequate surety is provided as required in Section 19.10.070;
- E. All improvements covered by surety shall be completed within one year of recording the short plat.
- F. Said surety will be called for payment on behalf of the City immediately after the expiration of the one-year period after recording if the required improvements are not complete.
- G. All public improvements required to be constructed for development of a short subdivision shall be as required in Chapter 19.40, Design Standards and Chapter 19.42, Public Facility Requirements.

19.14.080 Short Plat Survey and Dedication Requirements.

- A. Every short subdivision submitted for final approval shall be accompanied by a record of survey prepared by a registered land surveyor according to the procedures and requirements set forth in RCW Chapter 58.09, the Survey Recording Act.
- B. Survey requirements pertaining to the surveyor's certificate, survey data and control monumentation shall be as provided for "Final Plats" in Chapter 19.10.

- C. If the short plat includes a dedication, the certificate shall also contain the dedication of all streets and other areas to the public and a waiver of all claims against any government authority which may result in damages to the adjacent land from construction of, drainage from and maintenance of any road or stormwater management facility. The certificate shall be signed and acknowledged before a notary public by all parties having any interest in the land subdivided. If any dedications are required, they shall be specifically identified on the plat document at the time of approval.

19.14.090 Survey Requirements.

- A. A licensed professional land surveyor shall complete all lot staking prior to the recording of the short subdivision.
- B. All lot corners, including interior lot corners, shall be marked with a permanent marker that bears the land surveyor's registration number. When the boundary lines follow a meandering line, the corners shall be set as directed by the City Engineer.
- C. When the legal description of the short subdivision utilizes partial or complete section subdivisional breakdown to establish the boundaries, section subdivision survey information shall be shown in accordance with the requirements of WAC 332-130-030.
- D. All reference monuments used in the establishment of the short subdivision corners shall be identified, described and noted as set or found. When appropriate, the survey shall reference previous surveys that served as the basis for the survey.
- E. When the short subdivision is adjacent to a constructed public right-of-way and the plat corners or its offset represent a quarter corner, section corner or donation land claim that is not of record or has been lost (or obliterated), a standard monument shall be placed.
- F. Whenever a short subdivision is adjacent to existing right-of-way, the centerline of the right-of-way shall be located on the plat drawing. If the constructed improvements fall outside of the documented right-of-way, the surveyor shall identify the existing edge of the pavement and limits of the maintained right-of-way section on the drawing and show its relationship to said centerline.
- G. All requirements of Chapter 58.09 RCW and Chapter 332-130 WAC governing minimum standards for land boundary surveys shall be met and a note shall be placed that reads: **THIS SURVEY COMPLIES WITH ALL THE STANDARDS AND GUIDELINES OF THE "SURVEY RECORDING ACT" CHAPTER 58.09 RCW AND WAC 332-130.**
- H. The side lot lines of each lot, which if extended would intersect with the curb shall be marked on the curb.

19.14.100 Short Plat Final Approval – Recording.

- A. Upon receipt of the completed short plat which meets all requirements of this chapter, the director shall submit all appropriate documentation to the City administrator who shall review and execute the administrator's signature block on the short plat if it is found to be ready for execution.
- B. The completed short plat must be accompanied by a current short plat certificate confirming that the title of the lands as described and shown on the short plat is in the name of the owner(s) signing the certificate.
- C. No short plat shall be valid without execution of the City administrator's and director's approval on the face of the plat.
- D. After ten days have elapsed from the date of the final approval as provided in Section 19.14.060, or cessation of all appeal periods, the City shall provide the signed plat and all documents to be recorded to the responsible surveyor.
- E. The responsible surveyor shall receive the plat and accompanying documents from the City and shall record said documents within fifteen days of receipt. Recording fees shall be paid by the Applicant.
- F. The short subdivision shall be approved only when all necessary documents have been recorded. A recorded Mylar or digital copy of the recorded documents shall be returned to the City and kept with the City's records.

- G. The short plat is not a legal division of land until it has been recorded.
- H. No permits for construction of any kind shall be issued for land subject to a short plat under the provisions of this chapter until documentation of the recorded plat has been provided to the City.

Chapter 19.16 BOUNDARY LINE ADJUSTMENTS

Sections:

- 19.16.010 Purpose/Applicability
- 19.16.020 Boundary Line Adjustment Requirements
- 19.16.030 Application Requirements
- 19.16.040 Determination of Completeness, Resubmittal and Expiration of Application
- 19.16.050 Public Notice of Application Process
- 19.16.060 Criteria for Approval
- 19.16.070 Review and Action by Director
- 19.16.080 Review and Action by Hearing Examiner on Concurrent Applications
- 19.16.090 Boundary Line Adjustment Approval – Recording

19.16.010 Purpose/Applicability

The purpose of this chapter is to provide procedures and standards for the adjustment of boundaries between adjacent parcels. Legitimate purposes of Boundary Line Adjustment applications shall be determined by conformance with the following standards:

- A. Whenever the owner(s) of abutting lots desire to adjust the boundary lines between their properties, they shall be required to apply for and obtain approval of a Boundary Line Adjustment as provided in this chapter.
- B. When all of the affected property owners are in agreement, the adjustment of lot lines between platted or unplatted lots, or both, should be a straightforward administrative process that results in more regular configurations of lot boundaries as determined by the Director or his/her designee. The adjustment of lot lines should lead to:
 - 1. Lots better configured to meet zoning setback requirements;
 - 2. Lots with adequate access; and
 - 3. The consolidation of existing nonconforming lots, or parts of existing lots, to create conforming lots.
- C. Lot line adjustments may not be proposed for or designed to accomplish any of the following:
 - 1. Create new or additional lots, tracts, parcels, or divisions.
 - 2. Adjust lines between lots that have been created for tax purposes only. Lots that have been created solely for tax purposes shall not be considered to be existing lots.
 - 3. Create new or additional parcels, lots, tracts, or building sites.
 - 4. Create substandard lots as to lot size and dimension.
 - 5. Render an existing structure or lot as nonconforming in any respect, nor increase the nonconformity of an existing nonconforming structure or lot.
 - 6. Jeopardize or render impractical existing easements so they cannot serve the purpose they were intended to provide.
 - 7. Result in an inadequate building site for any lot containing area(s) determined to be environmentally sensitive according to SMC 16.80.
 - 8. Be proposed if the proposed configuration requires the creation of new streets or Private roads; requires dedication of public right-of-way or creation of access easements; or requires improvements to existing streets or private roads in order to meet current development standards. A lot line adjustment is not the appropriate

mechanism to reconfigure lots if new or improved infrastructures are needed to serve the revised lot configuration.

9. The proposed Boundary Line Adjustment shall not create nonconforming lots or nonconforming situations and shall not increase nonconformities that exist at the time of application.

19.16.020 Boundary Line Adjustment Requirements.

- A. Boundary Line Adjustments require a property survey prepared by a licensed land surveyor. Copies of such survey shall be submitted with the application in such number and format as requested by the City, prepared in accordance with Section 19.16.030, below.
- B. The Boundary Line Adjustment drawing shall identify the exterior boundaries of all properties involved in the adjustment and shall identify the receiving parcel as a single parcel which includes the conveyed portion of the grantor's property. Revised legal descriptions of the parcels involved shall accompany the map.
- C. The Boundary Line Adjustment drawing and conveyance document shall contain a binding covenant indicating that the land being conveyed is for the sole purpose of adjusting the boundary line between parcels and is not to be sold or transferred as a separate parcel by the grantee, heirs and assigns.

19.16.030 Application Requirements.

Boundary Line Adjustment, as defined in chapter 19.04, shall comply with the following:

- A. Preapplication Conference.
 1. Pre-Application Conference Required
Prior to filing a Boundary Line Adjustment Application that involves properties with irregular boundaries or multiple parcels in one proposal, the Applicant shall attend a pre-application conference and submit a sketch or description of the proposed boundary change as provided in section 19.02.030 of this code. Applications meeting this description will not be accepted without a pre-application conference.
 2. Pre-Application Conference Not Required
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 Pre-Application conference.
- B. Multiple Parcel Applications
When an Applicant proposes to move boundaries among more than two adjacent parcels, the following components shall be included in the application:
 1. An area map showing all parcels involved in their current boundary configuration, including adjacent streets and other area details to clearly locate the property within the community.
 2. Individual depictions showing the survey-level details of each boundary in its current configuration and its proposed new location including map and legal description.
- C. Application Fee
A Base Application Fee and a per-lot fee as provided by the City of Sultan Annual Fee Schedule for each boundary line being adjusted.
- D. Legal Descriptions
The application shall include the existing and proposed legal descriptions of the properties involved.
- E. Lot Status
Applications shall provide evidence of legal lot status (verification that the lot(s) are not for tax purposes only).
- F. Map Requirements

Boundary Line Adjustment Maps shall contain a survey-level detail map of the existing property boundaries and square area of the existing parcels and clear depiction of the boundary to be moved and the configuration and square area of the resulting parcel(s). Adjacent public right-of-way shall be shown to document that each resulting parcel has the required public access.

G. Surveyor Required

1. A lot line adjustment map shall be a record of survey prepared, signed and sealed by a professional land surveyor licensed in the state of Washington prepared in accordance with the requirements of Chapter 58.09 RCW, Surveys—Recording and WAC 332-130-050, Survey map requirements.
2. The final lot line adjustment map shall be in a form acceptable for recording by the Snohomish County Auditor's Office.

19.16.040 Determination of Completeness, Resubmittal and Expiration of Application.

- A. The Developer shall submit the application to the Director along with the appropriate fees.
- B. Within 28-working days of the date of receipt of either an application or resubmitted and/or additional information, the director shall determine if the application is complete and accurate for the purposes of vesting.
- C. The City shall, within twenty-eight working days of receiving an application mail a written notice to the Applicant providing one of the following:
 1. A determination of completeness; or
 2. A determination of incompleteness and a statement(s) regarding what is necessary to make the application complete.
- D. The application shall not be accepted for formal filing and shall vest no rights until issuance of a formal determination of completeness by the director.
- E. Resubmittal
 1. Resubmittals with the necessary information making the application complete within six months of original filing will not be subject to additional short plat filing fees.
 2. Resubmittals between six months and one year of notification to provide additional information that are returned with the information that makes the application complete will be charged additional fees as provided by the City of Sultan City of Sultan Annual Fee Schedule.
- F. Expiration of Application.

Failure to resubmit a complete application responding to all requirements and standards of the determination of incompleteness or inaccuracy within one year of the notification of such determination shall result in expiration of the application. Any subsequent application for a boundary adjustment of the subject property shall be subject to a new application process and all fees applicable to a boundary adjustment

19.16.050 Public Notice of Application Process

Notice shall be provided as required for Level I Process in Chapter 19.22 of this Title.

19.16.060 Criteria for Approval.

In reviewing the proposed Boundary Line Adjustment, the Director or his/her designee shall use the following criteria for approval. To be approved, an application must comply with all of the following criteria:

- A. The proposed Boundary Line Adjustment (BLA) will not violate applicable zoning code requirements.
- B. The proposed BLA will not cause boundary lines to bisect on-site sewage disposal systems, prevent adequate access to water supplies or obstruct fire lanes.
- C. The proposed BLA will not create new access which is unsafe or detrimental to the existing road system because of sight distance, grade, road geometry or other safety concerns as determined by public works.

- D. If within a formal subdivision, that the proposed Boundary Line Adjustment will not violate the conditions of subdivision approval or the City's subdivision ordinance.
- E. The proposed BLA will not cause any existing lot that conforms to lot area or lot width requirements to become substandard.
- F. Lots that are reconfigured through the lot line adjustment process shall be designed in such a manner that there is sufficient area to construct all proposed structures, driveways, roads, parking areas and/or yards without encroaching on a critical area, buffer or any setback required to meet current code.
- G. No lot line adjustment shall be approved where the adjustment will result in a violation of a City or state code.

19.16.070 Review and Action by Director

- A. Review Level
Boundary Line Adjustments require a Level I (Director Review) development review as specified in Chapter 19.22 of this Title.
- B. The Director will circulate copies of the proposed Boundary Line Adjustment application to the City's development review team. Each development review team representative will provide recommendations to the director at the appropriate development review meeting.
- C. The Director or his/her designee shall review and approve the application if all of the requirements of this chapter have been met.
- D. The Director or his/her designee shall prepare a written decision with supporting facts and reasons within ninety days of receipt of a complete application.
- E. If the application does not meet the requirements of this chapter, the application shall be sent back to the Applicant for revisions or rejected.
 - 1. A requirement for revision shall include brief direction as to the code standards that are not met, but that could be met with appropriate revision.
 - 2. Denial of the application shall include a statement of the criteria/standards that are not met by the application and that no reasonable revision of the proposal can be expected to rectify and why that is the case.
- F. If the Boundary Line Adjustment is consolidated with one or more permits, the timing of Boundary Line Adjustment review shall be the same as the higher-level application of which it is a part.

19.16.080 Review and Action by Hearing Examiner on Concurrent Applications

- A. For Boundary Line Adjustments that are reviewed concurrently with a land use action requiring a decision by the Hearing Examiner, the BLA application shall not be considered complete for a determination of completeness until the concurrent application is complete.
- B. The Hearing Examiner shall act as the BLA decision maker when the BLA is in conjunction with a concurrent land use application requiring a decision by the Examiner.
- C. The Examiner shall apply the review criteria in this chapter in determining if a BLA may be approved. Frontage and infrastructure improvements, as provided in Chapters 19.40 Development Standards and 19.42 Public Facility Requirements, of this Title may be required for the area subject to the BLA and the concurrent application.

19.16.090 Boundary Line Adjustment Approval – Recording.

- A. When the requirements of this chapter are met, the Director shall certify approval of the Boundary Line Adjustment.
- B. The Applicant must submit and complete and record all required documents as specified by this title within 30 days following the date of approval to validate the Boundary Line Adjustment.
- C. Failure to complete and record the required documents within fifteen days following approval will result in lapse of the approval. A new application and fee will be required if the Applicant desires to proceed with the project. No time extension will be granted.

- D. No Boundary Line Adjustment shall be recorded without the director's certification on its face.
- E. The surveyor shall set the necessary monuments, record the survey with the county auditor and submit a copy to the director.
- F. A Boundary Line Adjustment is not valid until it has been recorded.
- G. A recorded Mylar or digital copy of the recorded documents shall be returned to the City and kept with the City's records.
- H. If any dedications are required, they shall be specifically identified on the plat document at the time of approval.

**Chapter 19.18
PRELIMINARY BINDING SITE PLANS**

Sections:

- 19.18.010 Purpose
- 19.18.020 Binding Site Plan Process Optional for Commercial and Industrial
- 19.18.030 Binding Site Plan Process Required for Condominium and Mobile Park
- 19.18.040 Review of Preliminary Application for Small Scale Binding Site Plan
- 19.18.050 Review of Preliminary Application for Large Scale Binding Site Plan
- 19.18.060 Preapplication Conference Required
- 19.18.070 Determination of Completeness, Resubmittal and Expiration of Application
- 19.18.080 Public Notice of Application Process
- 19.18.090 Review Procedure for Preliminary Binding Site Plan
- 19.18.100 Application Submittal
- 19.18.110 Binding Site Plan Design and Development Components
- 19.18.120 Development Requirements
- 19.18.130 Standards for Review of a Commercial or Industrial Binding Site Plan
- 19.18.140 Standards for Review of a Manufactured Home Park
- 19.18.150 Standards for Review of Condominium Development.
- 19.18.160 Completion of Improvements Required
- 19.18.170 Surety Permitted for Specific Improvements
- 19.18.180 Lapse of approval of Preliminary Binding Site Plan

19.18.010 Purpose.

The Binding Site Plan process provided by state statute and the Sultan Municipal Code is provided as an alternative to the standard subdivision process for specific types of development. The Binding Site Plan process is applicable to the creation of two or more lots. The Binding Site Plan shall only be applied for the purpose of dividing land for:

- A. Sale or lease of commercially or industrially zoned property as provided in RCW 58.17.040(4);
- B. Lease of property developed for residential occupancy of mobile homes as provided in RCW 58.17.040(5).
- C. Condominiums as provided in either Chapter 64.32 or 64.34 RCW, consistent with RCW 58.17.040(7).
- D. This Chapter provides the process for submittal, review, decision and expiration of applications for a Preliminary Binding Site Plan.

19.18.020 Binding Site Plan Process Optional for Commercial and Industrial.

At the option of the Developer, the Binding Site Plan process may be used for development of commercial or industrial property. Binding Site Plan flexibility will be most applicable to land divisions where lots are created that do not have code-standard frontage on public right-of-way. Access easements and other measures allowed by the Binding Site Plan system provide for

creative approaches to design and construction of commercial and industrial multi-tenant developments.

Development of commercial and industrial property is not required to apply for a Binding Site Plan if the lot layout provides code-standard access to public right-of-way for all lots in the development.

19.18.030 Binding Site Plan Process Required for Condominium and Mobile Park

A. Condominium Development

As authorized by RCW 58.17.035 and 58.17.040 (7) condominium development, whether a new development, or a condominium regime placed over existing development, is required to be applied for, reviewed and approved, conditioned or denied through the Binding Site Plan process as provided in this chapter.

B. Mobile Home Park Development

As provided by RCW 58.17.035 58.17.040 (5) mobile home park development proposals in the City of Sultan are required to be applied for, reviewed and approved, conditioned or denied through the Binding Site Plan process as provided in this chapter.

19.18.040 Review of Preliminary Application for Small Scale Binding Site Plan.

Small scale Binding Site Plans shall be reviewed and acted upon as a Level II administrative review process by the director to determine conformance with Sections 19.18.110, 19.18.120, 19.18.130 and/or 19.18.140, as appropriate to the type of proposal.

19.18.050 Review of Preliminary Application for Large Scale Binding Site Plan.

Large scale Binding Site Plans shall be reviewed and acted upon as quasi-judicial review process by the Hearing Examiner in conformance with Level III procedures.

19.18.060 Preapplication Conference Required.

A. Purpose

The purpose of a Preapplication Conference is for the prospective Applicant and City Staff to gain a common understanding of the nature of the contemplated development and subsequent development and any procedures, rules, standards and policies which may apply.

The prospective Applicant is encouraged to bring to the conference whatever information deemed appropriate to help describe the existing nature of the site and its surroundings and the proposed nature of the contemplated subdivision and subsequent development. Such information may include photographs, sketches and maps. The director or the prospective Applicant may request that an additional conference or conferences be held to further the purpose of this section.

B. Preapplication Conference Process.

1. Prior to the filing of a Binding Site Plan application, the Developer shall apply for a Preapplication Conference as provided in Section 19.02.030 of this Title.
2. The development review team shall advise the Developer as to procedure, conformity to applicable ordinances and comprehensive plan policies.
3. Attendance and participation in a Preapplication Conference shall not vest an application. Vesting of an application shall only occur when a complete Binding Site Plan application has been submitted and accepted for review along with the applicable fee as provided by the City of Sultan Annual Fee Schedule.

19.18.070 Determination of Completeness, Resubmittal and Expiration of Application.

- A. The Developer shall submit the application to the Director along with the appropriate fees.
- B. Within 28 working days of the date of receipt of either an application or resubmitted and/or additional information, the director shall determine if the application is complete and accurate for the purposes of vesting.

- C. The City shall, within twenty-eight working days of receiving an application mail a written notice to the Applicant providing one of the following:
1. A determination of completeness; or
 2. A determination of incompleteness and a statement(s) regarding what is necessary to make the application complete.
- D. The application shall not be accepted for formal filing and shall vest no rights until issuance of a formal determination of completeness by the director.
- E. Resubmittal
1. Resubmittals with the necessary information making the application complete within six months of original filing will not be subject to additional Binding Site Plan filing fees.
 2. Resubmittals between six months and one year of notification to provide additional information that are returned with the information that makes the application complete will be charged additional fees as provided by the City of Sultan City of Sultan Annual Fee Schedule.
- F. Expiration of Application.
- Failure to resubmit a complete application responding to all requirements and standards of the determination of incompleteness or inaccuracy within one year of the notification of such determination shall result in expiration of the application. Any subsequent application for Binding Site Plan of the subject property shall be subject to a new application process and all fees applicable to a preliminary subdivision application.

19.18.080 Public Notice of Application Process

Notice shall be provided as required for Level II Notice process in Chapter 19.34 of this Title for Small Scale Binding Site Plans, or Level III Notice process in Chapter 19.34 for Larger Scale Binding Site Plans.

19.18.090 Review Procedure for Preliminary Binding Site Plan.

- A. Action by the director.
- Upon a determination of completeness as provided above, the director shall begin review of the application for preliminary approval of a binding site plan and distribute the appropriate materials to directors and agencies as provided below.
- B. Action by Other City Directors.
- The director will circulate copies of the proposed Binding Site Plan to relevant City directors and affected agencies. The director or agency shall review the application and furnish the director with a report as to the effect the proposed Binding Site Plan may have upon their area of responsibility and expertise. The reports submitted should include recommendations as to the extent and type of improvements provided.
- C. Notice requirements shall be in accordance with Chapter 19.34 SMC.
- D. Small Scale Application; Director Review.
- If the Binding Site Plan proposes development of a site area of two acres or less, or four lots or fewer, the decision to approve, conditionally approve, or deny the Preliminary Binding Site Plan shall be handled under Level II procedures as provided in Chapter 19.24 of this Title.
- E. Large Scale Application; Hearing Examiner Review.
- If a Binding Site Plan proposes development of a site area of more than two acres, or more than four lots the decision to approve, conditionally approve, or deny the Preliminary Binding Site Plan proposal shall be handled under Level III procedures.
- E. Preliminary approval of the Binding Site Plan by the Director under subsection (D) of this section, or by the Hearing Examiner under subsection (E) of this section shall constitute authorization for the Applicant to take the necessary steps to meet the conditions imposed by the City before commencing the Final Binding Site Plan review process as provided by Chapter 19.20 of this Title.

19.18.100 Application Submittal.

Each application for Binding Site Plan approval shall contain five copies of all complete application forms, plans and reports. A complete application must include:

- A. Application form and declaration of ownership.
- B. A draft "development agreement" incorporating the conditions of approval, the time line for development, limitation for the use of the land and improvement guarantees to ensure compliance of all conditions of approval for the Binding Site Plan.
- C. Fees as set forth in the City of Sultan City of Sultan Annual Fee Schedule.
- D. Title report (dated within the last 30 days).
- E. Vicinity map of the area where the site is located.
- F. Environmental checklist.
- G. Landscape plan.
- H. Parks and open space plan.
- I. Binding Site Plan Design constructed in conformance with Section 19.18.100
- J. A preliminary site plan to a scale of 30 feet to one inch, or appropriate multiple, stamped and signed by a registered engineer, architect or land surveyor illustrating the proposed development of the property and including, but not limited to, the following:
 1. Name or title of the proposed Binding Site Plan;
 2. Date, scale and north arrow;
 3. Boundary lines and dimensions including any platted lot lines within the property;
 4. Total acreage;
 5. Property legal description;
 6. Existing zoning;
 7. Location and dimensions of all existing and proposed:
 - a. Buildings, including height in stories and feet and including total square feet of ground area coverage;
 - b. Parking stalls, access aisles and total area of lot coverage of all parking areas;
 - c. Off-street loading area(s);
 - d. Driveways and entrances;
 - e. Density of residential uses;
 8. Proposed building setbacks in feet;
 9. Location of any regulated sensitive areas such as wetlands, steep slopes, wildlife habitat or floodplain and required buffers;
 10. Location and height of fences, walls (including retaining walls) and the type or kind of building materials or planting proposed to be used;
 11. Location of any proposed signs;
 12. Location, dimension and basic layout of parking lots and access ways including landscaping
 13. Proposed surface stormwater management system;
 14. Location of all rights-of-way and easements and uses indicated;
 15. Location of existing and proposed utility service;
 16. Existing and proposed grades shown in five-foot interval topographic contour lines;
 17. Fire hydrant locations.
- K. Any other information as required by the Director to determine that the application is in compliance with the Sultan Municipal Code, including but not limited to
 1. Traffic studies,
 2. Wetland reports,
 3. Critical Areas Analysis,
 4. Elevations,
 5. Profiles and perspectives of buildings and site layout.

19.18.110 Binding Site Plan Design and Development Components.

A Binding Site Plan design shall provide for and include the following:

- A. Division lines between lots in commercial BSP shall be considered lot lines.

- B. Each such tract or lot created by such BSP shall have a designated front lot line and one rear lot line including those which have no street frontage.
- C. All tracts, parcels and lots created by a BSP shall be burdened by City-approved and enforceable cross easements for access to the various lots, tracts and parcels and an approved maintenance agreement for the cost of maintaining landscaping, parking lots and access ways, critical areas, buffers and all other common areas.
- D. When any lot, tract or parcel is created without 30 feet of street frontage, easements shall be given to the owner and City allowing access for police, fire, public and private utilities along the access roads to each tract, lot or parcel.
- E. If the City so elects, the City shall be granted power to maintain the access easements and file liens on the property for collection of the costs incurred for maintenance. The authorization to maintain such access ways shall impose no duty on the City to maintain the access ways.
- F. The BSP shall contain a provision that the owner's failure to keep the fire access lanes open and maintained may subject the property to being abated as a nuisance and the City may terminate occupancy of such properties until the access easement ways are adequately maintained.
- G. Freestanding signage may be off of the tract, lot or parcel where the business is located as long as City sign requirements are met within the area encompassed by the BSP.
- H. Parking requirements for each use must be located on the lot where the use is located or joint parking agreements must be recorded by the owners for the areas of the BSP. Prior to building permit approval, parking agreements must be approved by the City.
- I. Landscaping requirements will be met for each phase of the BSP. Landscaping requirements may be met for area of one or more lots as long as a joint maintenance agreement is recorded or included in declaration of covenants.

19.18.120 Development Requirements.

- A. Lots subject to a Binding Site Plan shall not be sold, leased, or transferred unless the Binding Site Plan and a record of survey map, which is prepared in compliance with Chapter 58.09 RCW including a legal description of each lot being created, is for record in the Snohomish County auditor's office. The Binding Site Plan and all of its requirements shall be legally enforceable on the purchaser or other person acquiring ownership of the lot, parcel, or tract.
- B. All development must be in conformance with the recorded Binding Site Plan. Any development, use or density which fails to substantially conform to the site plan as approved constitutes a violation of this chapter and is subject to all available enforcement provisions of this code and the SMC.

19.18.130 Standards for Review of a Commercial or Industrial Binding Site Plan.

- A. The City shall review the proposed Binding Site Plan to determine whether it meets the following criteria:
 - 1. The Binding Site Plan and development of the parcel conforms to all applicable provisions of the comprehensive plan.
 - 2. The Binding Site Plan meets all applicable development standards and zoning regulations.
 - 3. The Binding Site Plan takes into account the topography, drainage, vegetation, soils and any other relevant physical elements of the site in conformance with the Sultan Critical Areas Regulations, the Shoreline Master Program, the Sultan Stormwater Management Performance Standards and all other applicable environmental provisions of the SMC.
 - 4. Adequate public services are provided in conformance with the Water System Plan and General Sewer Plan, the Transportation Plan and Transportation Element of the Comprehensive Plan and the Sultan Concurrency Management System.

5. Examination of the project through the SEPA process and compliance with any mitigation measures required in the SEPA determination.

19.18.140 Standards for Review of a Manufactured Home Park

All manufactured home parks as defined in SMC Title 16 shall be applied for as a Binding Site Plan under provisions of this chapter.

The criteria for approval shall include conformance with the development standards of SMC 16.52, as well as all other applicable development standards in SMC Title 16 and all applicable environmental and engineering standards of the City of Sultan.

19.18.150 Standards for Review of Condominium Development.

All condominium developments, whether for new development, or for creating a condominium regime in existing development, shall be applied for as a Binding Site Plan under provisions of this chapter. No condominium filing with the Snohomish County Recorder's office shall be considered valid without City of Sultan authorization attesting to approval of the Binding Site Plan as required by this Chapter.

The criteria for approval shall include conformance with all applicable development standards in SMC Title 16 and all applicable environmental and engineering standards of the City of Sultan.

19.18.160 Completion of Improvements Required

- A. Preliminary approval of a Binding Site Plan shall constitute a commitment between the City and the Applicant.
 1. By issuance of the Preliminary Binding Site Plan Approval, the City commits to approval of the Final Binding Site Plan Application if all conditions of application and all development standards are adhered to.
 2. By accepting the Preliminary Binding Site Plan Approval, the Applicant commits to completing the development according to the conditions of approval and the applicable development standards.
- B. The following infrastructure systems must be complete prior to application for Final Binding Site Plan:
 1. Water Mains,
 2. Sewer Mains,
 3. Vehicle travel and parking surfaces
 4. Curb and gutter,
 5. Storm water management and erosion control facilities
 6. Sidewalk,
 7. Street Trees
 8. Native growth protection structures
 9. Underground electrical and telecommunication improvements required for all public or private utilities and public illumination or traffic signal systems, if required, consistent with the approved plans.

19.18.170 Surety Permitted for Specific Improvements

Certain improvements required as a condition of the Preliminary Binding Site Plan Approval may be guaranteed for completion after filing of the final Binding Site Plan under the following conditions:

- A. Items proposed for surety shall not be in the mandatory completion list provided in 19.18.160 above.

B. Items proposed to be guaranteed for completion under surety, shall be secured to the City by a surety in the amount of 150% of the cost of remaining improvements as determined by the Applicant's engineer and as accepted by the City Engineer.

C. Infrastructure Available for Surety

The following may be proposed for deferred construction under surety according to this Section at the time of application for Final Plat approval:

1. The final lift of asphalt,
2. Internal park and recreation amenities,
3. Pedestrian connections,
4. Similar features not required for essential operation of the development and delivery of emergency services.

D. Street Trees.

For street tree installation as specified in Chapter 19.40, the Developer agreement with accompanying surety shall include that the Developer will install all remaining street trees following the sale of fifty percent of the lots or three years from the date of Final Plat approval, whichever comes first.

19.18.180 Lapse of Approval of Preliminary Binding Site Plan.

Preliminary approval of a Binding Site Plan shall lapse and become void in the case of any of the following:

- A. The Applicant fails to submit an application for a Final Binding Site Plan approval within 2 years of the date of approval of the Preliminary Binding Site Plan.
- B. The Applicant fails to submit a revised Preliminary Binding Site Plan application within 180 days in response to a Staff determination that the application submittal does not meet the requirements for a determination of completeness as provided in Section 19.18.070 above.

**Chapter 19.20
FINAL BINDING SITE PLANS**

Sections:

19.20.010	Purpose
19.20.020	Submittal of Application for Final Binding Site Plan, Time Line
19.20.030	Determination of Completeness, Resubmittal and Expiration of Application
19.20.040	Public Notice of Application Process
19.20.050	Review of Final Application for Small Scale Binding Site Plan
19.20.060	Review of Final Application for Large Scale Binding Site Plan
19.20.070	Administrative Review
19.20.080	City Council Action
19.20.090	Dedications and Binding Site Plan Agreement
19.20.100	Transfer of Ownership
19.20.110	Building and Occupancy Conditions
19.20.120	Release of Improvement Guarantee, Maintenance Surety
19.20.130	Survey Requirements
19.20.140	Recording Requirements
19.20.150	Amendment, Modification and Vacation

19.20.010 Purpose.

The purpose of this chapter is to provide for review and decision on applications for Final Binding Site Plans.

This chapter becomes applicable when a Developer completes the conditions of Chapter 19.28 and submits application for a Final Binding Site Plan within the time specified for such submittal.

19.20.020 Submittal of Application for Final Binding Site Plan, Time Line.

Preliminary Binding Site Plan approvals shall expire and not be reviewed for Final Binding Site Plan approval under the following conditions.

- A. As provided in Section 19.18.180, preliminary approval of a Binding Site Plan shall lapse unless the Applicant submits an application for Final Binding Site Plan approval within two years of the date of approval of the Preliminary Binding Site Plan.
- B. Preliminary approval of a Binding Site Plan shall lapse if an Applicant fails to submit a revised Final Binding Site Plan within 180 days in response to a determination that the final submittal does not meet the requirements for approval as provided in Section 19.20.030 below.

19.20.030 Determination of Completeness, Resubmittal and Expiration of Application.

- A. The Developer shall submit the application to the Director along with the appropriate fees.
- B. Within 28 working days of the date of receipt of either an application or resubmitted and/or additional information, the director shall determine if the application is complete and accurate for the purposes of vesting.
- C. The City shall, within twenty-eight working days of receiving an application mail a written notice to the Applicant providing one of the following:
 - 1. A determination of completeness; or
 - 2. A determination of incompleteness and a statement(s) regarding what is necessary to make the application complete.
- D. The application shall not be accepted for formal filing and shall vest no rights until issuance of a formal determination of completeness by the director.
- E. Resubmittal
 - 1. Resubmittals with the necessary information making the application complete within six months of original filing will not be subject to additional short plat filing fees.
 - 2. Resubmittals between six months and one year of notification to provide additional information that are returned with the information that makes the application complete will be charged additional fees as provided by the City of Sultan City of Sultan Annual Fee Schedule.
- F. Expiration of Application.

Failure to resubmit a complete application responding to all requirements and standards of the determination of incompleteness or inaccuracy within one year of the notification of such determination shall result in expiration of the application. Any subsequent application for final Binding Site Plan approval of the subject property shall be subject to a new application process and all fees applicable to a final Binding Site Plan application.

19.20.040 Public Notice of Application Process

Notice shall be provided as required for Level II process for small scale Binding Site Plans and Level III process shall be provided for large scale Binding Site Plans, as provided in Chapter 19.34 of this Title.

19.20.050 Review of Final Application for Small Scale Binding Site Plan.

Small scale Binding Site Plans shall be review and acted upon as an administrative review process by the director in conformance with Level II Procedures prescribed by Chapter 19.24 for conformance with Section 19.20.070 C.

19.20.060 Review of Final Application for Large Scale Binding Site Plan.

Large scale Binding Site Plans shall be reviewed and acted upon as an administrative review process by the City Council in conformance with Level IV Procedures prescribed by Chapter 19.28 for conformance with Section 19.20.080.

19.20.070 Administrative Review.

A. City Council Schedule

When an Application for Final Large Scale Binding Site Plan has been determined to be complete as provided in 19.20.030 above, the director shall place the Final Binding Site Plan on a Council agenda that allows for at least 10 working days of Staff review prior to the Council meeting. The Final Plat shall be reviewed by the Council within 90 days of the Determination of Completeness as provided in 19.20.030 above.

B. City Engineer Review

The City Engineer shall review the Final Plat and shall make findings in response to all of the following:

1. Sultan concurrency management issues as provided in SMC 16.108 for:
 - a. Transportation
 - b. Water
 - c. Sewer
 - d. Parks
2. City improvement standards and requirements in effect on the date of preliminary plat approval, including, but not limited to:
 - a. Stormwater Management and Erosion Control
 - b. City of Sultan Design Standards and Specifications
 - c. Water System Plan
 - d. General Sewer Plan
 - e. City Water and Sewer Engineering Standards as provided in Chapter 19.42
3. Completion of all mandatory development components as provided by Chapter 19.18.160 of this Title.
4. Provision of surety for all required development components as provided by Chapter 19.28.140 of this Title.
5. Submittal of adequate record as-built drawings for the required facilities as listed in Section 19.18.160 B.

C. Director Review

Prior to filing the Final Binding Site Plan for Council action, the director shall make findings in response to all of the following:

1. The Final Binding Site Plan meets all standards established by state law and this code;
2. The City Engineer has completed review as provided in Item B above.
3. The final plan and accompanying materials conform in all respects to the Preliminary Binding Site Plan approval and conditions issued by the Hearing Examiner.
4. All components of utility, public service and transportation facilities required to be completed prior to Final Plat approval have been completed and approved by the City Engineer.
5. All components of utility, public service and transportation facilities allowed to be constructed after Final Binding Site Plan approval have been guaranteed by surety acceptable to the City as provided by Section 19.18.170.
6. A Maintenance Bond acceptable to the City has been provided for all utility, public service and transportation facilities required to be guaranteed.
7. The proposed final plan bears the certificates and statements of approval required by law and all other components specified in Section 19.20.130.
8. A Title Insurance Report furnished by the Developer confirming that the title of the land in the proposed subdivision is vested in the name of the owners having a title interest and whose signatures appear on the plat's certificate;
9. The Developer has provided any required surety in a form acceptable to the City attorney in an amount commensurate with improvements required to be completed as described in Section 19.18.170.

19.20.080 City Council Action.

A. Council Transmittal

Prior to the date at which the Council will consider the Final Binding Site Plan, the director shall forward to the Council the original of the Final Binding Site Plan, along with the planning agency's report which discusses the conformity or nonconformity of the Final Binding Site Plan with:

1. The terms and conditions of the preliminary plat approval;
2. The requirements of Chapter 58.17 RCW and other applicable state laws in effect at the time of Preliminary Binding Site Plan approval and
3. The requirements of this title in effect at the time of preliminary approval.

B. Approval authority vested in City Council:

The City Council shall have sole authority to approve final plans for large scale Binding Site Plans. The Council shall approve, disapprove, or return to the Applicant for modification or correction, a proposed Final Plat, on the date of the meeting set for consideration of the Final Binding Site Plan unless the Applicant agrees, in writing, to an extension of the time period provided by RCW 58.17.035.

C. Council Decision

1. If the Council finds that the large scale Binding Site Plan proposed for final approval conforms to all terms of the preliminary plat approval and that the Final Binding Site Plan meets the applicable requirements of Chapter 58.17 RCW, other applicable state laws and this title, which requirements were in effect on the date of preliminary plat approval, it shall direct and authorize the mayor to suitably inscribe and execute its written approval on the face of the Final Plat.
2. If the Council finds that the proposed Final Binding Site Plan does not meet the conditions of the Hearing Examiner's decision and conditions of the preliminary plan and/or does not meet the standards of the applicable State Statutes, or local ordinances or development standards, the Council shall not approve the Final Binding Site Plan.
3. Action to not approve a Final Binding Site Plan as provided in Item 2 above shall be accompanied by findings indicating the standards not met and general direction regarding how those standards can be met if the Developer intends to proceed with submittal of a revised Final Binding Site Plan application.

19.20.090 Dedications and Binding Site Plan Agreement.

- A. No Final Binding Site Plan shall be approved unless adequate provision is made for the dedication or reservation of drainage ways, streets, alleys, easements and other general purposes as may be required by the SEPA process.
- B. Item A. above notwithstanding, it is understood that many of the facilities in a Binding Site Plan, including access ways and utilities, will be privately owned and not dedicated to the public for operation and/or maintenance.
- C. All infrastructure facilities in a Binding Site Plan will be subject to a Binding Site Plan Agreement that provides for the ongoing operation and maintenance of all required infrastructure including but not limited to the following:
 1. Access ways, internal circulation routes, vehicle maneuvering areas, parking lots and related facilities.
 2. All water and sewer system components not dedicated to the City. If internal systems are dedicated to the City, they must be accompanied by easements that provide for City access and operations necessary for maintenance of the public facility. The easement document shall provide that the City is responsible for the cost of maintenance of the main, but is not responsible for the cost of replacement of the overlying private access way, parking lot, or other facility disrupted by the City's maintenance activity.
 3. All storm water management facilities.
 4. All required internal traffic direction infrastructure including signs, painted lane striping and directional information and required safety lighting.

5. All other infrastructure specifically required as a condition of approval of the Preliminary Binding Site Plan.
- D. The Binding Site Plan Agreement shall include the following:
1. A list and description of all mandatory components of the development, meaning those facilities and infrastructure that are required as a condition of approval of the project.
 2. The Agreement shall specify that the Developer and/or all subsequent property owners are responsible for ongoing operation, maintenance and financial support of all mandatory components.
 3. A statement that the City is authorized to undertake, by contract with third parties, any and all operation and maintenance of mandatory components that are not satisfactorily addressed by the Developer and/or subsequent property owners.
 4. A statement that the City has the right to bill the Developer and/or subsequent property owners for all costs incurred in activities related to maintaining mandatory components of the development as specified in Item 3 above, which shall include a fifteen (15)% administrative overhead charge in addition to the cost of any third party contracts.
 5. A statement that the City has the right to place liens against any and all property in the development for recovery of costs associated with activities described in Items 3 and 4 above if the Developer and/or subsequent owners fail to pay the bills submitted to them by the City within the time specified on the billing.
 6. A statement that the Developer shall record the Binding Site Plan Agreement as part and parcel of the approved Binding Site Plan and that the Developer and all subsequent property owners are bound by its provisions on an ongoing basis.
 7. If any dedications are required, they shall be specifically identified on the plat document at the time of approval.

19.20.100 Transfer of Ownership.

See Section 19.02.100.

19.20.110 Building and Occupancy Conditions.

- A. No building permit for a structure other than a temporary contractor's office or temporary storage building shall be issued for a lot or parcel within an approved Binding Site Plan until:
1. The minimum required improvements which will serve the subject lot or parcel have been constructed in accordance with SMC 19.18.160; and
 2. All remaining improvements have been financially guaranteed under the requirements of SMC 19.18.170.

19.20.120 Release of Improvement Guarantee or Maintenance Surety.

- A. If a financial surety for improvements has been submitted under SMC 19.18.170, such guarantee shall only be released upon all of the following:
1. Acceptance by the City of a properly executed bill of sale for such improvements;
 2. Acceptance of such improvements by the City Engineer based on a determination that the improvements meet the standards required by the Binding Site Plan approval and any applicable City development standard documents.
- B. To ensure the adequate operation of required infrastructure improvements, a Maintenance Bond equivalent to 20 percent of the value of the improvements required by Section 19.18.160 of this Title, shall be provided by the Developer to the benefit of the City as a maintenance guarantee for a minimum period of two years from the date the City Engineer certifies the completion of the plat improvements have been satisfied.

19.20.130 Survey Requirements.

- A. A licensed professional land surveyor shall complete all lot staking prior to the recording of the Final Binding Site Plan.
- B. All lot corners, including interior lot corners, shall be marked with a permanent marker that bears the land surveyor's registration number. When the boundary lines follow a meandering line, the corners shall be set as directed by the City Engineer.
- C. When the legal description of the Final Binding Site Plan utilizes partial or complete section subdivisional breakdown to establish the boundaries, section subdivision survey information shall be shown in accordance with the requirements of WAC 332-130-030.
- D. All reference monuments used in the establishment of the Final Binding Site Plan corners shall be identified, described and noted as set or found. When appropriate, the survey shall reference previous surveys that served as the basis for the survey.
- E. When the Final Binding Site Plan is adjacent to a constructed public right-of-way and the plat corners or its offset represent a quarter corner, section corner or donation land claim that is not of record or has been lost (or obliterated), a standard monument shall be placed.
- F. Whenever a final Binding Site Plan is adjacent to existing right-of-way, the centerline of the right-of-way shall be located on the plat drawing. If the constructed improvements fall outside of the documented right-of-way, the surveyor shall identify the existing edge of the pavement and limits of the maintained right-of-way section on the drawing and show its relationship to said centerline.
- G. All requirements of Chapter 58.09 RCW and Chapter 332-130 WAC governing minimum standards for land boundary surveys shall be met and a note shall be placed that reads:
THIS SURVEY COMPLIES WITH ALL THE STANDARDS AND GUIDELINES OF THE "SURVEY RECORDING ACT" CHAPTER 58.09 RCW AND WAC 332-130.

19.20.140 Recording Requirements.

- A. When the proposed Final Binding Site Plan receives final approval the Applicant, within fifteen days from the date of approval, shall record the approved Binding Site Plan and development agreement, with the Snohomish County Auditor.
- B. A recorded Mylar or digital copy of the recorded documents shall be returned to the City and kept with the City's records.
- C. The City shall also be provided with three paper copies of the Recorded Binding Site Plan and development agreement within five working days of recording.

19.20.150 Amendment, Modification and Vacation.

- A. Minor amendments to the approved Preliminary Binding Site Plan
Upon approval of a small scale or large scale Preliminary Binding Site Plan, the Applicant may make minor modifications prior to the final submittal(s). Modifications that qualify for minor review by the director are limited to the following:
 - 1. Minor adjustments of common property lines between parcels.
 - 2. Location of storm water management facilities within areas designated for this function on the general plan
 - 3. Other minor adjustments of design features or landscaping components that result in continued conformance with the general Binding Site Plan
- B. Amendment, modification and vacation of a general Binding Site Plan that exceeds the limitations in Item A. above shall be accomplished by following the same procedure and satisfying the same laws, rules and conditions as required for a new Binding Site Plan application, as set forth in this chapter. The vacated portion shall be consolidated to constitute one lot.

Chapter 19.22 LEVEL I - LAND DIVISION REVIEW PROCEDURE

Sections:

19.22.010	Purpose
19.22.020	When Required
19.22.030	Development Authorization Application – Level I
19.22.040	Notice Procedures
19.22.050	Determination of Completeness, Resubmittal and Expiration of Application
19.22.060	Review Procedures, Decision – Level I (Land Division)
19.22.070	Approval
19.22.080	Denial
19.22.090	Appeal

19.22.010 Purpose.

The purpose of Level I Procedure is to handle applications that are decided on the basis of compliance with very specific standards that involve the least amount of discretion or policy interpretation in the review process. Applications can only be reviewed under Level I process when they involve no proposed deviation from ordinance development standards. Level I applications receive administrative Staff review only, with development authorization issued by the director or designee.

19.22.020 When Required.

Level I Development Authorization applications are required for the following actions processed under Title 19:

- A. Boundary Line Adjustments (Chapter 19.16)
- B. All other land division proposals determined by the director to be most closely similar to Level I uses.

19.22.030 Development Authorization Application – Level I.

Level I applications shall be made in writing to the Director on forms supplied by the Director. The application shall contain all information called for in the Chapter that addresses administration of the type of application. The Director or his designee may request any other information necessary to clarify the application or determine compliance with and provide for the enforcement of this Code.

19.22.040 Notice Procedures.

Public Notice of Level I Land Division applications shall be as provided in Section 19.34.050 or 19.34.060, as appropriate.

19.22.050 Determination of Completeness, Resubmittal and Expiration of Application.

- A. The Developer shall submit the application to the Director along with the appropriate fees.
- B. Within 28 working days of the date of receipt of either an application or resubmitted and/or additional information, the director shall determine if the application is complete and accurate for the purposes of vesting.
- C. The City shall, within twenty-eight working days of receiving an application mail a written notice to the Applicant providing one of the following:
 1. A determination of completeness; or
 2. A determination of incompleteness and a statement(s) regarding what is necessary to make the application complete.
- D. The application shall not be accepted for formal filing and shall vest no rights until issuance of a formal determination of completeness by the director.
- E. Resubmittal

1. Resubmittals with the necessary information making the application complete within 90 days of original filing will not be subject to additional filing fees.
2. Resubmittals between 90 days and six months of notification to provide additional information that are returned with the information that makes the application complete will be charged additional fees as provided by the City of Sultan City of Sultan Annual Fee Schedule.

F. Expiration of Application.

Failure to resubmit a complete application responding to all requirements and standards of the determination of incompleteness or inaccuracy within six months of the notification of such determination shall result in expiration of the application. Any subsequent application for subdivision of the subject property shall be subject to a new application process and all fees applicable to a preliminary subdivision application.

19.22.060 Review Procedures – Level I.

A. Revision:

A requirement for revision shall include:

1. A brief direction as to the code standards that are not met, but that could be met with appropriate revision.
1. Shall indicate the time lines for resubmittal as provided in Section 19.22.050 above.

B. Rejection:

Rejection of an application shall include:

1. A statement of the criteria/standards that are not met by the application,
2. A brief explanation as to why no reasonable revision of the proposal can be expected to rectify and why that is the case.

C. Development Review Committee.

Proposals requiring review by the development review committee will be sent to the committee by the director no later than fourteen days after the application has been determined to be complete.

D. Additional Agency Review

The director may also, but is not required to, solicit comments from other resource persons or public agencies he or she may determine may be affected by a proposal that is categorically exempt under SEPA.

E. SEPA Review.

If SEPA review is required, such review will be conducted by the responsible official in accordance with the provisions of SMC Chapter 17 and Chapter 197-11 WAC. No approval or permit shall be issued on the proposal until SEPA review is complete.

F. Director's Decision.

The Director or his/her designee shall complete review of a Level I application and approve the application if all of the requirements of this chapter have been met.

The Director or his/her designee shall prepare a written decision with supporting facts and reasons within ninety days of receipt of a complete application.

19.22.070 Approval.

The director shall issue a Development Authorization when it is determined by the director with confirmation by the City administrator that the proposal complies with the provisions of this Code and the Comprehensive Plan.

19.22.080 Denial.

When an application is denied, the director shall state the specific reasons and shall cite the specific Chapters and Sections of this Code upon which the denial is based.

19.22.090 Appeal.

Any decision by the director and City administrator to grant or deny issuance of a Level I development authorization use may be appealed to the Hearing Examiner under the provisions of Chapter 19.36, Closed Record Decisions and Appeals.

Requests for additional or more detailed information and determinations that a higher review level is needed are not appealable.

Chapter 19.24

LEVEL II - LAND DIVISION REVIEW PROCEDURE

Sections:

19.24.010	Purpose
19.24.020	When required
19.24.030	Development Authorization Application – Level II
19.24.040	Notice Procedures
19.22.050	Determination of Completeness, Resubmittal and Expiration of Application
19.22.060	Review Procedures – Level II
19.24.070	Approval
19.24.080	Denial
19.24.090	Appeal

19.24.010 Purpose.

The purpose of Level II procedure is to handle applications that are decided on the basis of compliance with very specific standards that involve a relatively low level of discretion or policy interpretation in the review process. Applications can only be reviewed under Level II process when they involve no proposed deviation from ordinance development standards. Level II applications receive administrative Staff review only, with development authorization issued by the director or designee after confirmation by the City administrator.

19.24.020 When Required.

Level II (Land Division) Development Authorization applications are required for the following actions processed under Title 19:

- A. Small-scale Binding Site Plans (Chapter 19.18 and 19.20)
- B. Short Plats (Chapter 19.12 and 19.14)
- C. All other land division proposals determined by the director to be most similar to Level II uses.

19.24.030 Development Authorization Application – Level II.

Level II applications shall be made in writing to the Director on forms supplied by the Director. The application shall contain the information called for in the Chapter that addresses administration of the type of application. The Director or his designee may request any other information necessary to clarify the application or determine compliance with and provide for the enforcement of this Code.

19.24.040 Notice Procedures.

Public notice of Level II Land Division applications shall be as provided in Section 19.34.060 of this Title.

19.24.050 Determination of Completeness, Resubmittal and Expiration of Application.

- A. The Developer shall submit the application to the Director along with the appropriate fees.

- B. Within 28 working days of the date of receipt of either an application or resubmitted and/or additional information, the director shall determine if the application is complete and accurate for the purposes of vesting.
- C. The City shall, within twenty-eight working days of receiving an application mail a written notice to the Applicant providing one of the following:
 - 1. A determination of completeness; or
 - 2. A determination of incompleteness and a statement(s) regarding what is necessary to make the application complete.
- D. The application shall not be accepted for formal filing and shall vest no rights until issuance of a formal determination of completeness by the director.
- E. Resubmittal
 - 1. Resubmittals with the necessary information making the application complete within 90 days of original filing will not be subject to additional filing fees.
 - 2. Resubmittals between 90 days and six months of notification to provide additional information that are returned with the information that makes the application complete will be charged additional fees as provided by the City of Sultan City of Sultan Annual Fee Schedule.
- F. Expiration of Application.

Failure to resubmit a complete application responding to all requirements and standards of the determination of incompleteness or inaccuracy within six months of the notification of such determination shall result in expiration of the application. Any subsequent application for subdivision of the subject property shall be subject to a new application process and all fees applicable to a preliminary subdivision application.

19.24.060 Review Procedures – Level II.

- A. Revision:

A requirement for revision shall include:

 - i. A brief direction as to the code standards that are not met, but that could be met with appropriate revision.
 - 2. Shall indicate the time lines for resubmittal as provided in Section 19.24.050 above.
- B. Rejection:

Rejection of an application shall include:

 - 1. A statement of the criteria/standards that are not met by the application,
 - 2. A brief explanation as to why no reasonable revision of the proposal can be expected to rectify and why that is the case.
- C. Development Review Committee.

Proposals requiring review by the development review committee will be sent to the committee by the director no later than fourteen days after the application has been determined to be complete.
- D. Additional Agency Review

The director may also, but is not required to, solicit comments from other resource persons or public agencies he or she may determine may be affected by a proposal that is categorically exempt under SEPA.
- E. SEPA Review.

If SEPA review is required, such review will be conducted by the responsible official in accordance with the provisions of Chapter 17.04 of this code and Chapter 197-11 WAC. No approval or permit shall be issued on the proposal until SEPA review is complete.
- F. Director's Decision.

The Director or his/her designee shall complete review of a Level I application and approve the application if all of the requirements of this chapter have been met.
The Director or his/her designee shall prepare a written decision with supporting facts and reasons within ninety days of receipt of a complete application.

19.24.070 Approval.

The director shall issue a Development Authorization when it is determined by the director with confirmation by the City administrator that the proposal complies with the provisions of this Code and the Comprehensive Plan.

19.24.080 Denial.

When an application is denied, the director shall state the specific reasons and shall cite the specific Chapters and Sections of this Code upon which the denial is based.

19.24.090 Appeal.

Any decision by the director and City administrator to grant or deny issuance of a Level II development authorization use may be appealed to the Hearing Examiner under the provisions of Chapter 19.36, Closed Record Decisions and Appeals.

Requests for additional or more detailed information and determinations that a higher review level is needed are not appealable.

**Chapter 19.26
LEVEL III –LAND DIVISION REVIEW PROCEDURE**

Sections:

19.26.010	Purpose
19.26.020	When Required
19.26.030	Development Authorization Application – Level III (Land Division)
19.26.040	Notice Procedures
19.26.050	Determination of Completeness, Resubmittal and Expiration of Application
19.26.060	Review Procedures – Level III
19.26.070	Approval
19.26.080	Denial
19.26.090	Appeal

19.26.010 Purpose.

The purpose of Level III procedure is to handle applications that are decided on the basis of compliance with policy standards that involve a high level of discretion or policy interpretation in the review process. Level III applications receive review and decision by the Hearing Examiner under procedures set forth in this chapter and in SMC 2.26.

19.26.020 When Required.

Level III Development Authorization applications are required for the following actions processed under Title 19:

- A. Large-scale Binding Site Plans (Chapter 19.18 and 19.20)
- B. Preliminary Subdivision Plat Applications (Chapter 19.06 and 19.08)
- C. All other land division proposals determined by the director to be most similar to Level III uses.

19.26.030 Development Authorization Application – Level III.

Level III applications shall be made in writing to the Director on forms supplied by the Director. The application shall contain the information called for in the Chapter that addresses administration of the type of application. The Director or his designee may request any other information necessary to clarify the application or determine compliance with and provide for the enforcement of this Code.

19.26.040 Notice Procedures.

Public notice of Level III Land Division applications shall be as provided in Section 19.34.070 of this Title.

19.26.050 Determination of Completeness, Resubmittal and Expiration of Application.

- A. The Developer shall submit the application to the Director along with the appropriate fees.
- B. Within 28 working days of the date of receipt of either an application or resubmitted and/or additional information, the director shall determine if the application is complete and accurate for the purposes of vesting.
- C. The City shall, within twenty-eight working days of receiving an application mail a written notice to the Applicant providing one of the following:
 - 1. A determination of completeness; or
 - 2. A determination of incompleteness and a statement(s) regarding what is necessary to make the application complete.
- D. The application shall not be accepted for formal filing and shall vest no rights until issuance of a formal determination of completeness by the director.
- E. Resubmittal
 - 1. Resubmittals with the necessary information making the application complete within six months of original filing will not be subject to additional filing fees.
 - 2. Resubmittals between six months and one year of notification to provide additional information that are returned with the information that makes the application complete will be charged additional fees as provided by the Sultan Annual Fee Schedule.
- F. Expiration of Application.

Failure to resubmit a complete application responding to all requirements and standards of the determination of incompleteness or inaccuracy within one year of the notification of such determination shall result in expiration of the application. Any subsequent application for subdivision of the subject property shall be subject to a new application process and all fees applicable to a preliminary subdivision application.

19.26.060 Review Procedures – Level III.

- A. Revision:

A requirement for revision shall include:

 - 1. A brief direction as to the code standards that are not met, but that could be met with appropriate revision.
 - 2. Shall indicate the time lines for resubmittal as provided in Section 19.26.050 above.
- B. Rejection:

Rejection of an application shall include:

 - 1. A statement of the criteria/standards that are not met by the application,
 - 2. A brief explanation as to why no reasonable revision of the proposal can be expected to rectify and why that is the case.
- C. Development Review Committee.

Proposals requiring review by the development review committee will be sent to the committee by the director no later than fourteen days after the application has been determined to be complete.
- D. Additional Agency Review
The director may also, but is not required to, solicit comments from other resource persons or public agencies he or she may determine may be affected by a proposal that is categorically exempt under SEPA.
- E. SEPA Review.

If SEPA review is required, such review will be conducted by the responsible official in accordance with the provisions of Chapter 17.04 of this code and Chapter 197-11 WAC. No approval or permit shall be issued on the proposal until SEPA review is complete.
- F. Director's Recommendation.

The Director or his/her designee shall complete review of a Level III application and construct a written report for submittal to the Hearing Examiner.

The report shall address all relevant criteria called for in this title for the type of application being reviewed, including input from City Staff and other agencies involved in the review process and the SEPA determinations if applicable.

19.26.070 Approval.

The director shall issue a Development Authorization when it is determined by the Hearing Examiner that the proposal complies with the provisions of this Code and the Comprehensive Plan.

19.26.080 Denial.

When an application is denied, the Hearing Examiner shall state the specific reasons and shall cite the specific Chapters and Sections of this Code upon which the denial is based.

19.26.090 Appeal.

Any decision by the Hearing Examiner to grant or deny issuance of a Level III development authorization use may be appealed to Superior Court as provided by state law.

Requests for additional or more detailed information and determinations that a higher review level is needed are not appealable.

**Chapter 19.28
LEVEL IV - LAND DIVISION REVIEW PROCEDURE**

Sections:

19.28.010	Purpose
19.28.020	When Required
19.28.030	Application – Level IV
19.28.040	Notice Procedures
19.28.050	Determination of Completeness, Resubmittal and Expiration of Application
19.28.060	Review Procedures – Level IV
19.28.070	Approval
19.28.080	Denial
19.28.090	Appeal

19.28.010 Purpose.

The purpose of Level IV procedure is to provide for City Council action on applications that require Council final action after preliminary action by the Hearing Examiner. Level IV applications receive review and decision by the Hearing Examiner under procedures provided in SMC 2.26, with final action by the City Council.

19.28.020 When Required.

Level IV Development Authorization applications are required for the following actions processed under Title 19:

- A. Large-scale Binding Site Plan Final Plats (Chapter 19.18 and 19.20)
- B. Final Subdivision Plats (Chapter 19.10)

19.28.030 Application – Level IV.

- A. Applications for Level IV projects must be filed within the time lines established for the particular type of development as provided for in the chapter(s) that address the process for submittal of the particular type of final application. Nothing in this chapter shall be interpreted to modify the required time lines for filing of Final Plats.
- B. Level IV applications shall be made in writing to the Director on forms supplied by the Director. The application shall contain the information called for in the Chapters that

addresses administration of the type of application. The Director or his designee may request any other information necessary to clarify the application or determine compliance with and provide for the enforcement of this Code.

19.28.040 Notice Procedures.

Public notice of Level IV Land Division applications shall be as provided in Section 19.34.070 of this Title.

19.28.050 Determination of Completeness, Resubmittal and Expiration of Application.

- A. The Developer shall submit the application to the Director along with the appropriate fees.
- B. Within 28 working days of the date of receipt of either an application or resubmitted and/or additional information, the director shall determine if the application is complete and accurate for the purposes of vesting.
- C. The City shall, within twenty-eight working days of receiving an application mail a written notice to the Applicant providing one of the following:
 - 1. A determination of completeness; or
 - 2. A determination of incompleteness and a statement(s) regarding what is necessary to make the application complete.
- D. The application shall not be accepted for formal filing and shall vest no rights until issuance of a formal determination of completeness by the director.
- E. Resubmittal
 - 1. Resubmittals with the necessary information making the application complete within six months of original filing will not be subject to additional filing fees.
 - 2. Resubmittals between six months and one year of notification to provide additional information that are returned with the information that makes the application complete will be charged additional fees as provided by the City of Sultan City of Sultan Annual Fee Schedule.
- F. Expiration of Application.

Failure to resubmit a complete application responding to all requirements and standards of the determination of incompleteness or inaccuracy within one year of the notification of such determination shall result in expiration of the application. Any subsequent application for subdivision of the subject property shall be subject to a new application process and all fees applicable to a preliminary subdivision application.

19.28.060 Review Procedures – Level IV.

- A. Revision:

A requirement for revision shall include:

 - 1. A brief direction as to the code standards that are not met, but that could be met with appropriate revision.
 - 2. Shall indicate the time lines for resubmittal as provided in Section 19.28.050 above.
- B. Rejection:

Rejection of an application shall include:

 - 1. A statement of the criteria/standards that are not met by the application,
 - 2. A brief explanation as to why no reasonable revision of the proposal can be expected to rectify and why that is the case.
- C. Development Review Committee.

Proposals will be sent to the committee by the director no later than fourteen days after the application has been determined to be complete.
- D. Additional Agency Review
The director may solicit comments from other resource persons or public agencies as required by this code, or as he or she may determine to be appropriate.
- E. SEPA Review.

If SEPA review is required, such review will be conducted by the responsible official in accordance with the provisions of Chapter 17.04 of this code and Chapter 197-11 WAC. No approval or permit shall be issued on the proposal until SEPA review is complete.

F. Director's Report.

The Director or his/her designee shall complete review of a Level IV application and construct a written report for submittal to the City Council.

The report shall address all relevant criteria called for in this title for the type of application being reviewed, including input from the Hearing Examiner, City Staff and other agencies involved in the review process and the SEPA determinations if applicable.

19.28.070 Approval.

When it is determined by the City Council that the proposal complies with the decision and conditions of preliminary approval by the Hearing Examiner, the Council shall authorize execution of the Final Plat as provided in Chapters 19.10, or 19.20 of this code.

19.28.080 Denial.

A.

The City Council may deny a Final Plat application under Chapters 19.10 or 19.20 only in cases where the final application does not conform to the decision and conditions of the preliminary approval by the Hearing Examiner under Chapters 19.08 or 19.18. The Council may not deny a final application that meets the Hearing Examiner's conditions of preliminary approval.

B. When an application is denied, the City Council shall

1. Direct staff to prepare written findings stating the specific conditions of the Hearing Examiner's preliminary approval that are not met by the final application; ,
2. Council shall indicate the specific ways that the application fails to meet the Hearing Examiner's conditions;
3. Council shall adopt, by resolution, the document denying the application.

19.28.090 Appeal.

Any decision by the City Council to grant or deny issuance of a Level IV development authorization use may be appealed to superior court under the provisions of Chapter 19.36 and the applicable state statutes.

Chapter 19.34

PUBLIC NOTICE STANDARDS AND PROCEDURES

Sections:

- | | |
|-----------|---|
| 19.34.010 | Public Notice for Land Division Procedures |
| 19.34.020 | Publication and Certification of Notice |
| 19.34.030 | Notice of Application, Contents |
| 19.34.040 | Notice of Application, Distribution |
| 19.34.050 | Notice of Application, Level I, Applications Categorically Exempt from SEPA Review |
| 19.34.060 | Notice of Application, Level II Applications and Level I Applications Non-Exempt from SEPA Review |
| 19.34.070 | Notice of Application, Level III and Level IV Applications |
| 19.34.080 | Notice of Public Hearing, Level III and Level IV Applications |
| 19.34.090 | Comment Period |
| 19.34.100 | Integration of Notice Procedures with Environmental Review Procedures |
| 19.34.110 | Request for Special Notice |

19.34.120 Notice of Decision

19.34.010 Public Notice for Land Division Code Procedures Only

The provisions of this Chapter are applicable to land division procedures of Title 19 only. Levels of review and types of land division process shall be provided public notice as called for in the following sections of Chapter 19.34.

19.34.020 Publication and Certification of Notice.

- A. The director shall publish notices for which publication is required in the city's official newspaper.
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:
- B. 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 personnel 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)

(Signature)

19.34.030 Notice of Application, Contents.

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.

19.34.040 Notice of Application –Distribution.

Notice shall be distributed in the following manner, as appropriate to the level of review applicable to the project.

A. 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.

B. 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.

C. 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 Sultan Municipal Code Chapter 2.26.

D. The director will document the date and manner by which any notice is given.

E. The director may remove, or cause to be removed, posted notice upon expiration of the comment period.

F. 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.

19.34.050 Notice of Application: Level I Applications Categorically Exempt from SEPA Review.

A. The director shall deliver or mail notice of interpretation requests and applications for Level I proposals that are categorically exempt under SEPA to parties that have filed a special notification request in accordance with Section 19.34.100.

B. Such notice shall explain that there is no comment period and that the proposal is categorically exempt under SEPA.

19.34.060 Notice of Application: Level II Applications and Level I Applications Non-Exempt from SEPA Review.

A. The director shall deliver or mail notice for application of Level II proposals and Level I applications that are not categorically exempt under SEPA to parties that have filed a special notification request in accordance with Section 19.34.100.

B. The director shall additionally post notice on the City internet website containing the following information:

1. The identity of the Applicant;
2. The date of the application and the date of the determination of completeness;
3. A brief description of the proposed action;
4. 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;
5. 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;
6. A statement explaining how interested parties may request special notice.

19.34.070: Notice of Application, Level III and Level IV Applications.

A. The director shall deliver or mail notice for application/proposal of Level III and Level IV applications to:

1. The record owner(s) of property within three hundred 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.
2. Parties that have filed a special notification request in accordance with Section 19.34.100

B. 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:

1. The identity of the Applicant;
2. The date of the application and the date of the determination of completeness;
3. A brief description of the proposed action;

4. 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;
5. 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;
6. A statement explaining how interested parties may request special notice.

19.34.080: Notice of Application, Level III and Level IV Public Hearings.

- A. Notice shall be published in the City's official newspaper as provided in 19.34.020.
- B. The director shall deliver or mail notice for application/proposal of Level III and Level IV applications to:
 1. Parties that have filed a special notification request in accordance with Section 19.34.100
 2. The record owner(s) of property which is within 300 feet of the exterior boundaries of the subject parcel.
- C. 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:
 1. The identity of the Applicant;
 2. The date of the application and the date of the determination of completeness;
 3. A brief description of the proposed action;
 4. 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;
 5. 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;
 6. A statement explaining how interested parties may request special notice.

19.34.090 Comment Period.

- A. There is no public comment period on Level I proposals that are categorically exempt under SEPA.
- B. There shall be a 14-day public comment period on Level II proposals and Level I proposals that are not categorically exempt under SEPA.
- C. There shall be a 14-day public comment period on all Level, III and IV, proposals even if they are categorically exempt under SEPA.
- D. The length of the comment period shall be identified in the notice of application;
- E. 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.
- F. Comments must be submitted in writing to the director prior to expiration of the comment period.
- G. 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).

19.34.100 Integration of Notice Procedures with Environmental Review Procedures.

- A. 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.

- B. 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.

19.34.110 Request for Special Notice.

- A. Special notice means that the City will provide the information required by Section 19.34.050, 19.34.060, or 19.34.070, 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.
- B. 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:
 - 1. Filing a no-cost form provided by the City for the purpose of requesting a special notice.
 - 2. Providing by letter or e-mail a request for special notice which clearly states:
 - a. The requestor's name and contact information;
 - b. The specific application of interest in the request.
- C. 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.

19.34.120 Notice of Decision

Notice of Decisions made pursuant to this Title shall be provided according to the following provisions:

- A. Notice of Decision on an application under this Title shall be provided to the following:
 - 1. A letter delivered, or sent by first-class mail to:
 - a. The applicant, or the person or entity designated by the applicant to receive notice;
 - b. The appellant, if any;
 - c. Parties that have filed a special notification request in accordance with Section prior to rendering of the decision;
 - d. Identifiable parties who have provided addresses and have submitted substantive written comments on the proposal prior to rendering of the decision;
 - 2. For Level II applications and Level I Applications Non-Exempt from SEPA Review, notice shall be as provided in Item A. above and shall also include:
 - a. Posting on the City's internet website.
 - b. 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.
 - 3. For Level III and Level IV Applications, notice shall be as provided in Item A. above and shall also include:
 - a. Posting on the City's internet website.
 - b. The record owner(s) of property within three hundred 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.
 - c. Snohomish County Assessor's Office.
 - 4. A Notice of Decision shall include the following:
 - a. The name and a brief description of the project;
 - b. The identity of the Applicant;
 - c. Date of the Decision;
 - d. Brief description of the decision and any conditions;
 - e. The Appeal Rights that apply to the decision and the final date to file an Appeal.

Chapter 19.36
CLOSED RECORD DECISIONS AND APPEALS

Sections:

- 19.36.010 Appellate Body for Appeals
- 19.36.020 Consolidated Appeals
- 19.36.030 Appeals – Filing
- 19.36.040 Appeals – Procedure
- 19.36.050 Judicial Appeals
- 19.36.060 Actions not Appealable

19.36.010 Appellate Body for Appeals.

A. Appeals to the Hearing Examiner

The following appeals shall be made to the Hearing Examiner as provided in Sultan Municipal Code Chapter 2.26:

1. Appeal of final Level I and II decisions,
2. Final director decisions made pursuant to this Title,
3. Interpretations made by the Director pursuant to this Title other than determinations listed as not appealable.

B. Appeals to Courts beyond City jurisdiction

The following appeals shall be made to the venue of competent jurisdiction beyond the City of Sultan:

1. Appeal of final Level III decisions of the Hearing Examiner
2. Final Level IV decisions of the City Council,

19.36.020 Consolidated Appeals.

- A. All appeals on a particular application shall be handled in a consolidated appeal.
- B. Subsection A above notwithstanding, appeals of environmental determinations under SEPA shall proceed as provided in Section 17.04.240 of this code.
- C. The following appeals of SEPA procedural and substantive determinations need not be consolidated with a hearing or appeal on the underlying action on a proposal:
 1. An appeal of a determination of significance;
 2. An appeal of a procedural determination made by the responsible official on a non-project action.

19.36.030 Appeals – Filing.

Administrative appeal of the approving authority's decision on a project permit application shall be governed by the following:

A. Standing.

Only parties with standing may appeal a decision. Standing is limited to the following persons:

1. The Applicant and/or the owner of property to which the decision is directed;
2. Another person aggrieved or adversely affected by the decision, or who would be aggrieved or adversely affected by a reversal or modification of the land use decision. A person is aggrieved or adversely affected within the meaning of this section only when all of the following conditions are present:
 - a. The decision has prejudiced or is likely to prejudice that person;
 - b. That person's asserted interests are among those that the approving authority was required to consider when it made the decision;
 - c. An administrative appeal decision in favor of that person would substantially eliminate or redress the prejudice to that person caused or likely to be caused by the decision of the approving authority; and

d. The person has participated orally or in writing before the approving authority regarding the matter upon which review is requested.

B. Time to File.

An appeal of a decision that is appealable to the City must be filed within the following time periods and conditions:

1. Fourteen calendar days after service or publication of the notice of decision under Section 19.34.110
2. Appeals must be filed with the development services director before 5:00 p.m. on the last business day of the appeal period.

C. Computation of Time.

1. For the purposes of computing the time for filing an appeal, the day the decision is rendered shall not be included.
2. The last day of the appeal period shall be included unless it is a Saturday, Sunday, a day designated by RCW 1.16.050 or by the City's ordinances as a legal holiday, then it also is excluded and the filing must be completed on the next business day.

D. Content of Appeal.

Appeals shall be in writing, be accompanied by an appeal fee as required in the City of Sultan Annual Fee Schedule and shall contain the following information:

1. Appellant's name, address and phone number;
2. Appellant's statement describing his or her standing to appeal;
3. Identification of the application which is the subject of the appeal, including the project file number;
4. Appellant's statement of grounds for appeal and the facts upon which the appeal is based;
5. Appellant's statement that explains why the action is not consistent with the Sultan Comprehensive Plan, this code, or other provisions of law;
6. The relief sought, including the specific nature and extent, including an explanation of its consistency with the Comprehensive Plan and this code; and
7. A sworn statement that the appellant has read the appeal and believes the contents to be true, followed by the appellant's signature.

E. An answer need not be filed to an appeal. An appellant shall be confined to matters raised in the written appeal filed in accordance with subsection D of this section. A written appeal may be amended only upon the approval of the appellate body. Requests to amend an appeal must be filed with the director and served by the appellant upon all parties entitled to notice of appeal at least seven calendar days prior to the Appeal Hearing. Requests to amend shall not be freely granted.

F. Effect of Appeal.

The timely filing of an appeal shall stay the processing of a proposal and the effective date of the final decision until such time as the administrative appeal process is complete as provided in this chapter or withdrawn.

G. Notice of Appeal.

The administrator shall provide notice of the appeal to:

1. The Applicant, or the person or entity designated by the Applicant to receive notice;
2. Parties that have filed a special notification request in accordance with Section 19.34.100, prior to rendering of the decision;
3. Agencies with jurisdiction; and
4. Identifiable parties who have provided addresses and submitted substantive written comments on the proposal prior to rendering of the decision.

H. The director shall document the date and manner by which any notice is given.

19.36.040 Appeals – Procedure.

A. The Appeal Hearing shall be based on the record and no new evidence may be presented except as provided herein.

1. For director interpretations and Level I decisions and SEPA determinations for which there was no comment period, the record for appellate review may be supplemented by evidence of material facts that were not made part of the original record.
 2. For Level II decisions and SEPA determinations for which there was a comment period, the record may be supplemented by additional evidence only if the additional evidence relates to:
 - a. Grounds for disqualification of the approving authority that made the decision, when such grounds were unknown by the petitioner at the time the record was created;
 - b. Matters that were improperly excluded from the record after being offered by a party to the approving authority; or
 - c. Matters that were outside the jurisdiction of the approving authority that made the decision.
 3. If the appellate body allows the record to be supplemented, it shall require the parties to disclose before the Appeal Hearing the specific evidence they intend to offer. If any party, or anyone acting on behalf of any party, requests records under Chapter 42.56 RCW relating to the matters at issue, a copy of the request and response thereto shall simultaneously be given to all other parties and the appellate body.
 4. The appellate body may require or permit corrections of ministerial errors or inadvertent omissions from the record of the approving authority.
- B. The scope of an appeal shall be limited to issues timely raised by the appellant before the approving authority. An appellant shall be deemed to have waived any objection that was not raised at a time and in a manner to allow the approving authority to make correction prior to issuance of the decision which is the subject of the appeal.
- C. The appellate body shall review the record and may grant relief only if the appellant has carried the burden of establishing that one of the standards set forth in subsections (C)(1) through (6) of this section applies:
1. The approving authority engaged in unlawful procedure or failed to follow prescribed process, unless the error was harmless;
 2. The decision of the approving authority is an erroneous interpretation of the law, after allowing for such deference as is due the construction of a law by the approving authority with expertise;
 3. The decision of the approving authority is not supported by substantial evidence when viewed in light of the whole record before the appellate body;
 4. The decision of the approving authority is a clearly erroneous application of the law to the facts;
 5. The decision of the approving authority is outside the authority or jurisdiction of the body or officer making the decision;
 6. The decision of the approving authority violates the constitutional rights of the party seeking relief.
- D. The appellant, respondent and City Staff shall be permitted to address the appellate body and present argument upon the appeal. Such argument may not be used to introduce new evidence into the record except as provided in subsection A of this section.
- E. Copies of the administrative appeal decision shall be sent to the appellant and to other parties of record as soon as practicable following the Hearing at which the appeal is considered and, if applicable, within the time required by state law.

19.36.050 Judicial Appeals.

In no event shall judicial review be available until after action by the City has become final and after exhaustion of every other available appeal and remedy.

19.36.060 Actions not Appealable.

A. Generally

Only final actions or decisions of an approving authority may be appealed under this chapter.

B. Recommendations

Recommendations are not appealable except as part of the final decision or action being appealed.

C. Procedural Rulings.

Interim procedural or other rulings during or as part of a review or decision making process by a reviewing or other officer under this code are not appealable except as part of the final decision or action.

Chapter 19.40 DESIGN STANDARDS

Sections:

19.40.010	Purpose
19.40.020	Facilities Required to Conform to Design Standards, Relationship to Chapter 19.42
19.40.030	Design Standards for Cul-de-sac
19.40.040	Design Standards for Cul-de-sac Lots and Flag Lots
19.40.050	Design Standards for Stub Streets
19.40.060	Design Standards for Sidewalks
19.40.070	Design Standards for Private Streets
19.40.080	Design Standards for Half-streets
19.40.090	Design Standards for Alleys
19.40.100	Connection to Existing Stub Streets and Half-Streets Required
19.40.110	Connection for Pedestrian Access Within and Between Developments

19.40.010 Purpose.

The purpose of this Chapter is to establish specific Development Standards that apply to Land Division Procedures applied for, reviewed and approved under this Title. These standards are established to protect public safety and to provide for implementation of all modes of transportation called for in the Sultan Comprehensive Plan.

19.40.020 Facilities Required to Conform to Design Standards, Relationship to Chapter 19.42.

- A. All facilities proposed for developments approved under provisions of this Title shall be designed in conformance with the Design Standards established in this Chapter, whether they are to be dedicated to the public for ongoing operation and maintenance, or retained in private ownership.
- B. Engineering drawings and specifications for specific implementation of the Design Standards established in this Chapter shall be provided in conformance with the specifications of Chapter 19.42 of this Title, except as modified by any Design Standards established by this Chapter 19.42.
- C. Design Standards established in this Chapter 19.40 supersede any provision of Chapter 19.42 where the two Chapters provide standards for the same facility.

19.40.030 Design Standards for Cul-de-sac.

- A. Any linear portion of a public or private street, road, or lane that extends beyond a point of independent exiting from a development is performing the function of a cul-de-sac street in that it is an isolated portion street that has only one exit to the street system outside of the proposed development. All such dead-end portions of a public or private street, road, or lane are subject to the standards established for cul-de-sac design in this Chapter.

- B. Any street, road, or lane proposed to extend past the last exit point to the street system outside of the development is declared to be functioning as a cul-de-sac and is limited to a length of 400-linear centerline feet. (See Figure 19.40-1 below)

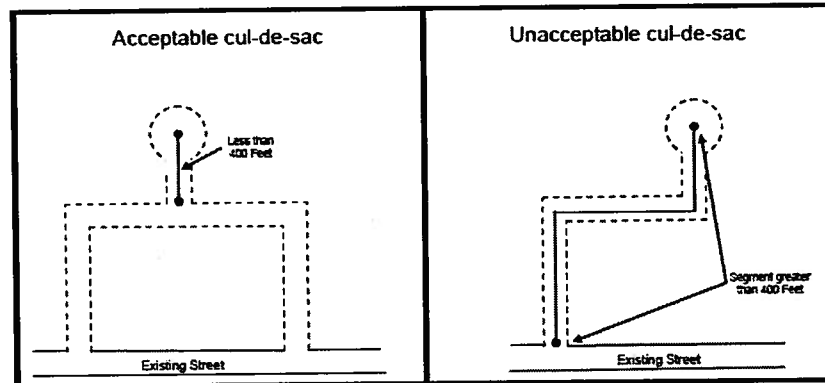


Figure 19.40-1 Acceptable and Unacceptable Cul-de-sac Configurations

- C. No cul-de-sac shall be designed with more than 14-lots fronting on the combined frontage of the linear portion and the turning circle portion of the cul-de-sac.
- D. Right-of-way for the turning circle at the end of a cul-de-sac shall be 45-foot radius with 38-foot radius to face of curb. (See Figure 19.40-2 below)
- E. Stub streets (as described in Section 19.04.050 below) shall not be used to substitute for compliance with the cul-de-sac requirements of this Section. Stub streets may be provided and/or required, but the requirement for the maximum of 400-foot length beyond the last point of exiting to the street system outside of the development shall be in force.

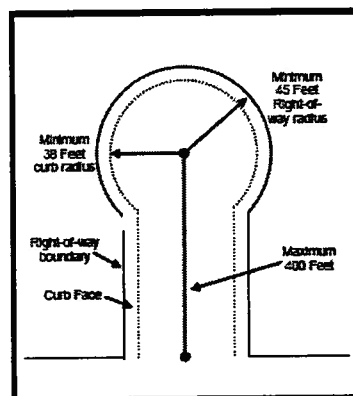


Figure 19.40-2 Cul-de-sac Measurements

19.40.040 Design Standards for Cul-de-sac Lots and Flag Lots

- A. Lots fronting on the turning circle of a cul-de-sac shall have a minimum frontage of 40-feet at the front building setback line.
- B. Flag Lots creating a second tier of properties beyond those properties with direct frontage on the right-of-way are not permitted to access the turning circle of a cul-de-sac.

19.40.050 Design Standards for Stub Streets.

- A. Stub streets are undeveloped/unimproved dedicated extensions of the street system in a proposed development that provide for continuation of the streets to adjacent property when future development is reasonably expected to be proposed on the adjacent property.
- B. Any portion of a street that is developed and available for vehicle traffic in the current development is not a stub street.
- C. Developed streets that do not connect to the City street system outside of the proposed development are dead-end streets that must be provided with a cul-de-sac and must conform to the maximum 400-foot length of a cul-de-sac street as described in 19.40.030 above.
- D. Stub streets may be required by the City when continuation of the development pattern onto the adjacent property is reasonably expected and where this development pattern can result in furtherance of the community's transportation network as called for in applicable policies of the Comprehensive Plan.
- E. When a stub street has been provided in a development and said stub street provides a reasonable opportunity for continuation of the community's transportation network, a development proposal on an adjacent property may be required by the City to be designed so as to connect to the stub street provided on the adjacent property.
- F. When the design of any particular street in a proposed development reaches the 400-foot maximum for developed streets, that street needs to end in a cul-de-sac as specified in 19.40.030 above and a stub street may be proposed by the developer or may be required by the City for continuation of the street system as described in Item D. above. The stub street right-of-way shall be dedicated to the public if required by the City.
- G. A plat proposal may provide for a cul-de-sac with a stub street extension to be reconstructed to a normal straight-line curb configuration when the stub street is completed. In this case, the plat must provide for vacation of the right-of-way to be vacated to the adjacent property owner and the improvements of the cul-de-sac removed by the developer through provision of an ongoing performance bond. (See figures 19.40-3, 19.40-4, 19.40-5 and 19.40-6 below)

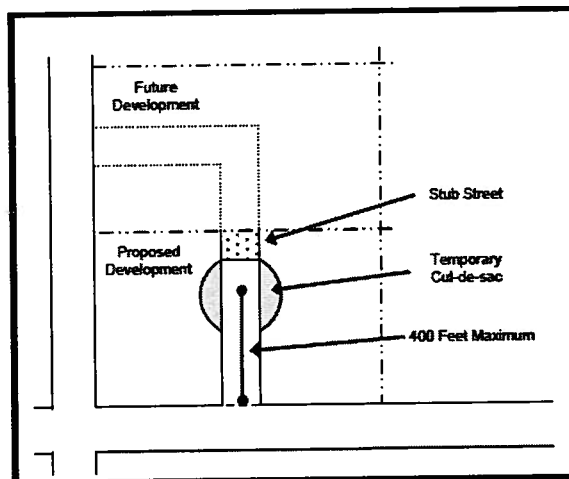


Figure 19.40-3 Cul-de-sac with Stub Street Extension to Future Development, Example #1

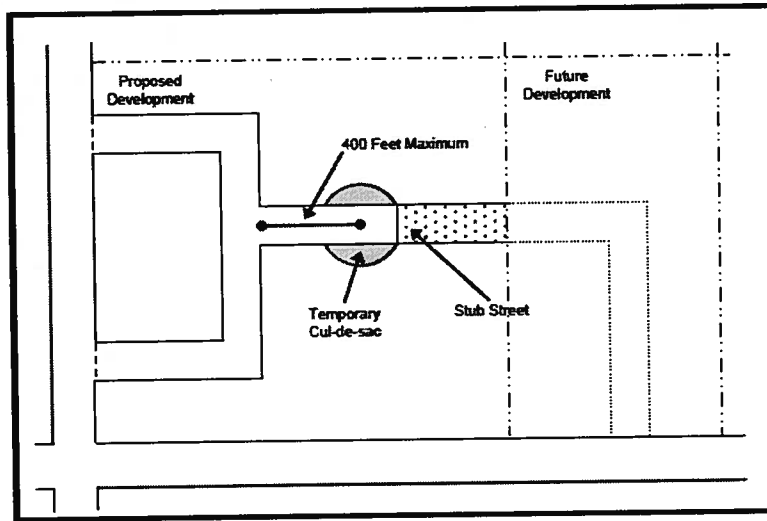


Figure 19.40-4 Cul-de-sac with Stub Street Extension to Future Development Example #2

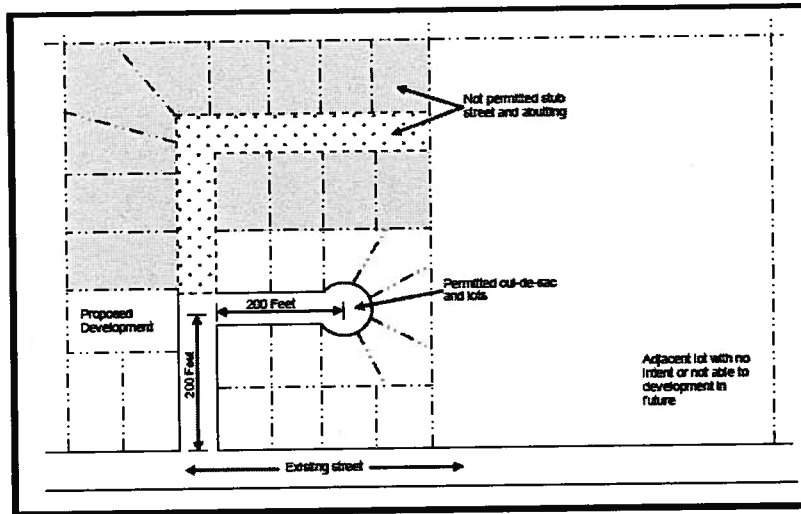


Figure 19.40-5 Permitted Cul-de-sac with Not-permitted Stub Street Extension to Adjacent Property with No Development in Future

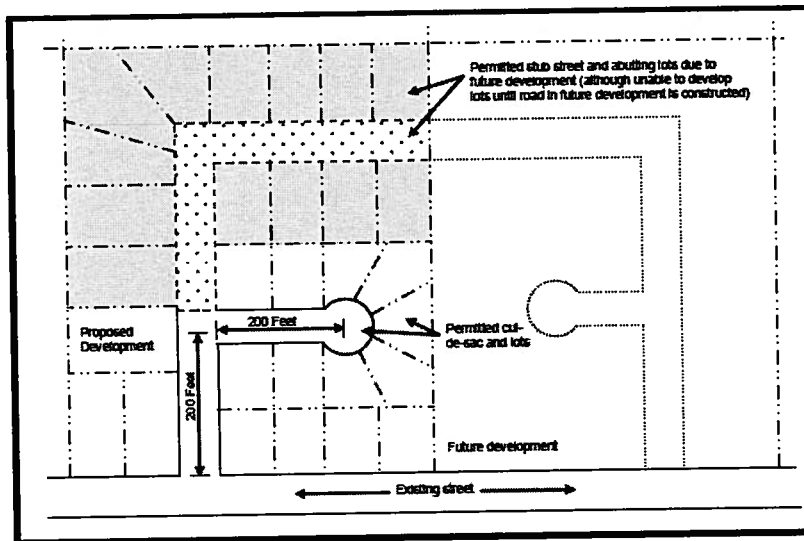


Figure 19.40-6 Permitted Cul-de-sac with Permitted Stub Street Extension to Adjacent Property with Future Development Plan

19.40.060 Design Standards for Sidewalks.

Sidewalks are an integral part of the community's transportation system. Comprehensive Plan policies rely on sidewalks as the chief component of the non-motorized transportation system. Sidewalks shall be provided in developments as follows:

- A. Sidewalks in residential developments are required on both sides of all streets, including cul-de-sac streets.
- B. Sidewalks shall be 5-feet wide.

19.40.070 Design Standards for Private Streets, Lanes and Alleys.

Private streets and other vehicle ways are required by this Chapter to function in the same capacity and provide the same life expectancy as streets and vehicle ways built for dedication to the public. Vehicle transportation facilities intended to be retained in private ownership shall comply with the following standards:

- A. Streets, Lanes and Alleys proposed to be retained in private ownership shall be designed and constructed to the standards provided in Chapter 19.42 for design and construction of that same facility to public standards.
- B. Private streets shall not be permitted in developments where there is a reasonable expectation that adjacent property will develop and that the street system can be appropriately continued through the provision of stub streets as provided in 19.40.050 above. A development shall not use private streets as a means to prevent through-development and access to adjacent property.
- C. Private streets shall be designed and constructed to appear on the plat documents and to function in the same fashion as public streets.
 - 1. Private streets shall not be located on private lots with easements for vehicle access on each lot. (See Figure 19.40-7 below)

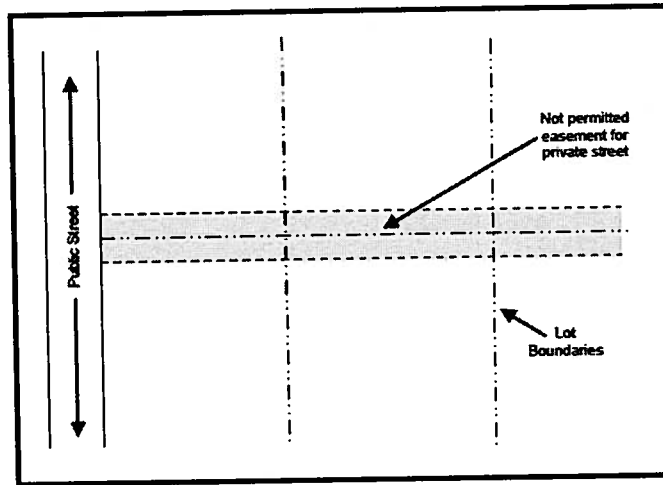


Figure 19.40-7 Not Permitted Easement on Private Lots for Private Street

2. Where private streets are included in a development, the street and its appurtenant fixtures, such as sidewalks and curbs, shall be on a single continuous parcel of land that is dedicated to the common ownership of the several property/home owners in the development.
3. Private streets shall have no effect on the minimum required lot size in the development, or the application of any setbacks required in the applicable land use zone in Title 16. Lots on private streets shall be platted to start at the boundary of the land provided for construction and ownership of the street.
4. Front-yard setbacks shall be measured from the front property line of the individual lot, excluding any land utilized and/or dedicated for design and construction of the vehicle way.

19.40.080 Design Standards for Half-streets

Half-streets are streets that the City may allow to be constructed in cases where the current development proposal is rightly responsible for a portion of a particular street and the adjacent property would rightly be responsible for development of the other portion of the street. Where the City, at its sole discretion, determines that a half-street design is appropriate, the following standards apply:

- A. Half-streets will only be permitted by the City in cases where the following conditions are found to exist:
 1. There is a reasonable expectation that development of the adjacent property will occur within 6-years of approval of the currently-proposed development.
 2. The adjacent property is reasonably expected to be able to design development on that property to expand and access the half-street as designed on by the current proposal.
- B. Half-street designs are required to meet all applicable construction and design standards of this Chapter and Chapter 19.42 except as modified by Item C. below.
(See Figure 19.40-8 below)

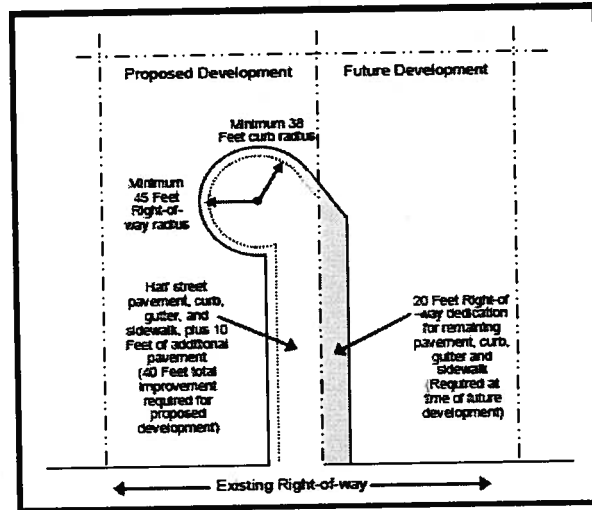


Figure 19.40-8 Half-Street Design for 60-foot Right-of-way

- C. A half-street is required to be designed and constructed as half of the normal cross-section of the street plus 10-feet of the normal street section and an appropriate temporary shoulder as determined by the City Engineer.
- D. Slope and construction easements from the adjacent property owner must be documented in the development application if the adjacent property is to be affected by the construction process. (See Figure 19.40-9 below)

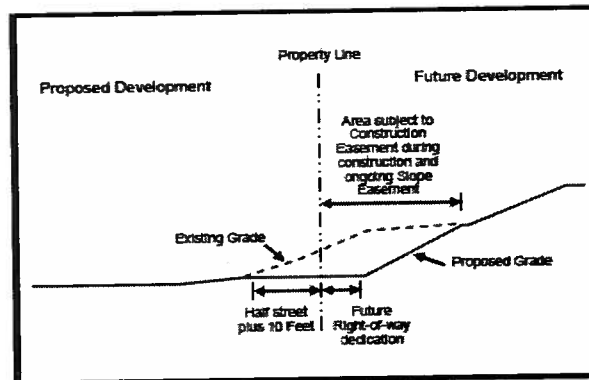


Figure 19.40-9 Half-Street Design Cross-section with Slope and Construction Easements

- E. Notwithstanding any other provisions of this Section, access for emergency service vehicles including fire trucks needs to be designed into the proposed development. Fire Marshall Approval of any proposed half-street design will be required as part of the land division review process.

19.40.090 Design Standards for Alleys

- A. Alleys may be designed into residential, commercial and industrial developments for the purpose of reducing traffic on the main frontage access street (the street used for addressing of the structures).
- B. When utilizing alleys in the development design of residential developments, where alleys are provided on the rear property line of all lots designated as "alley access" lots, the following design standards may be included in the development. (See Figure 19.40-10 below)
 1. The main frontage street may be reduced in width curb-to-curb by 9-feet and provide for parking on one side of the street only when all lots fronting the street are provided with rear-lot alley access.
 2. Garage access may be provided to the rear of the home from the alley.
 3. Lots provided with rear alley garage access may reduce the front yard setback by 5-feet.
 4. Alleys need to be constructed to public street standards to carry the weight of garbage collection vehicles if the development is designed to reduce the width of the main frontage street.
 5. Notwithstanding any other provisions of this Section, access for emergency service vehicles including fire trucks needs to be designed into the proposed development. Fire Marshall Approval of any street width reduction or alley design will be required as part of the land division review process.

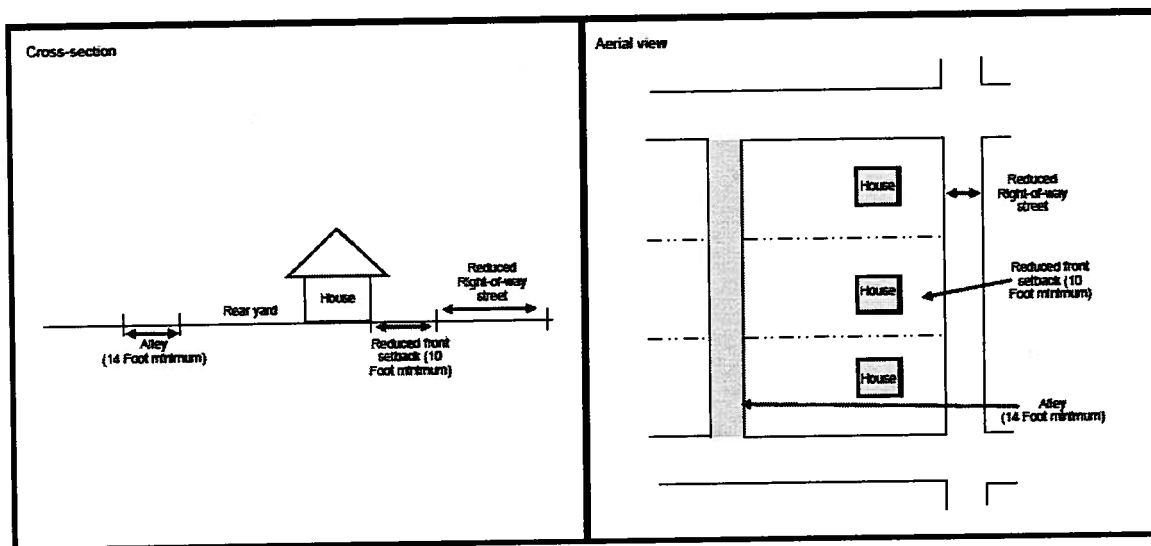


Figure 19.40-10 Alley Configuration/Use, Reduced Front Yard Setback Permitted

19.40.100 Connection to Existing Stub Streets and Half-streets Required

When previously constructed developments have provided stub streets and/or half-streets, the City may require said subsequent development to be designed in such a way as to connect to, expand and/or appropriately utilize such facilities as a condition of project approval to implement Comprehensive Plan Policies calling for connectivity and effective design of the community's transportation system.

19.40.110 Connection for Pedestrian Access Within and Between Developments

The Sultan Comprehensive Plan includes policies calling for development and continuation of pedestrian trails throughout the community to provide for health promotion and reduction of motorized vehicle trips. Land development proposed under this Code is required to provide for pedestrian trail connectivity under the following conditions and standards.

A. Trail connections are required where:

1. Cul-de-sac streets approach within 250-feet of the exterior boundary of a property:
(See Figure 19.40-11 below)

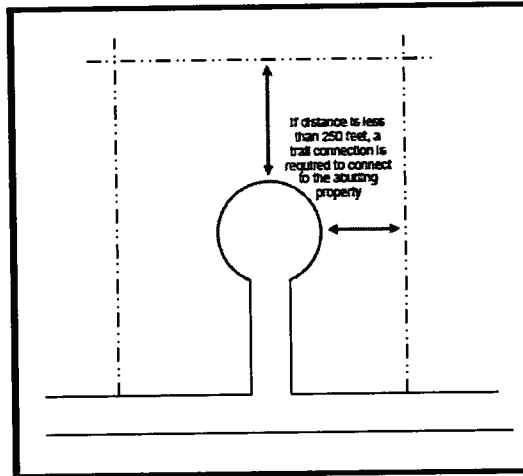
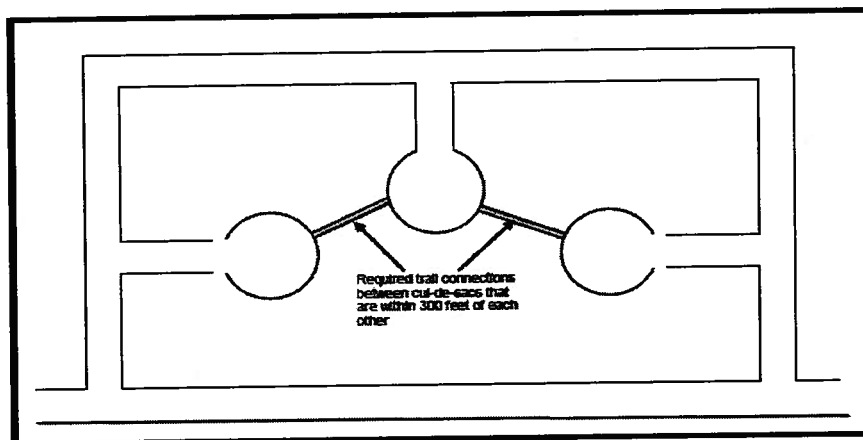


Figure 19.40-11 Trail Connections Required Within 250 Feet of Property Boundary

2. Multiple cul-de-sac streets are proposed to be within 300-feet of one another in the same development proposal. (See Figure 19.40-12 below)
3. A section of proposed street over 300-feet long that is uninterrupted by an intersection is within 250-feet of the exterior boundaries of the property proposed for development.



19.40-12 Figure Trail Connections Required Between Cul-de-sacs Within 300 feet

- B. Where a previous adjacent development has provided pedestrian trail facilities to the property boundary of the currently-proposed development, the currently-proposed development shall provide pedestrian trail right-of-way corridors to connect with the adjacent development's trail system under the following conditions: (See figure 19.40.13 below)
1. The existing trail contact point is within 250-feet of a proposed cul-de-sac,
 2. The existing trail contact point is within 250-feet of a proposed street over 300-feet long that is uninterrupted by an intersection.
- C. Required trail right-of-way corridors shall be designed and constructed to the following standards:
1. The trail corridor shall be a minimum of 8-feet wide
 2. The trail surface shall be a paved surface of not less than 5-feet wide.
 3. The trail surface shall be a paved surface meeting one of the following standards:
 - a. Asphalt cement of not less than 4" of 3/4minus base rock and 3" of asphalt cement.
 - b. Concrete cement of not less than 2" of 3/4minus base rock and 4" of concrete cement.

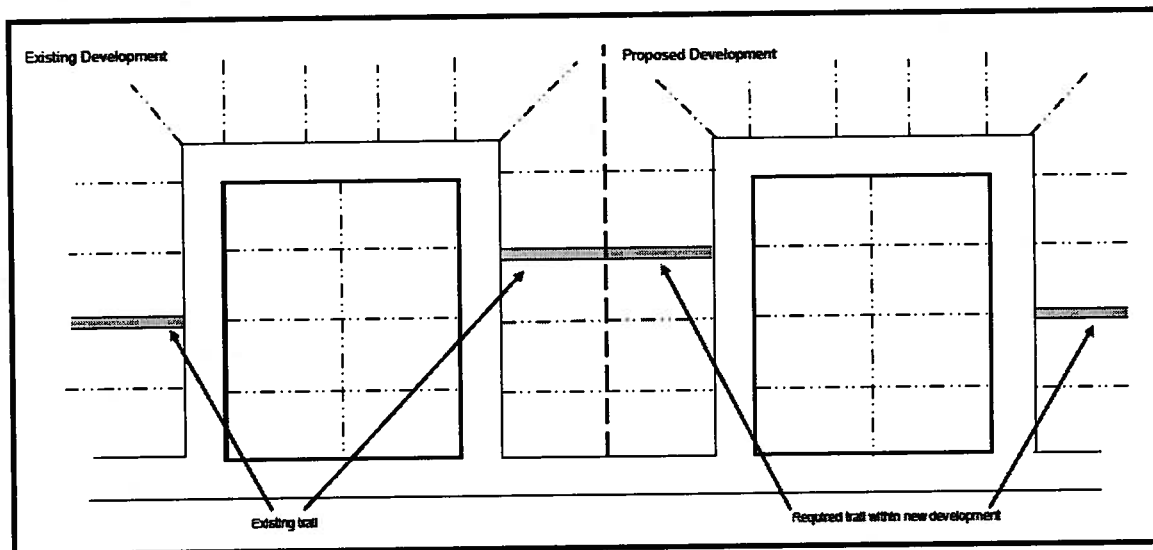


Figure 19.40-13 Trail Connections Required Between Existing and Proposed Developments

CHAPTER 19.42 PUBLIC FACILITY REQUIREMENTS

Sections:

- 19.42.010 Public Facilities Required to Conform to Standard Plans
- 19.42.020 Stormwater Management Facilities Required to Meet State Standards.
- 19.42.030 Facilities within Shoreline Areas and Related to Shoreline Activities Required to Meet City Standards
- 19.42.040 City Engineer to Determine Additional Standards and Specifications

19.42.010 Public Facilities Required to Conform to Standard Plans.

All facilities constructed for developments approved under provisions of the Title that are to be dedicated, or otherwise managed by the City shall be constructed to the standards and specifications of the following unless superseded by a specific provision of this Title:

- A. City of Sultan Design Standards and Specifications (then-current edition).
- B. City of Sultan Water and Sewer Engineering Standards (then-current edition).
- C. Snohomish County Engineering Design and Development Standards (Then-current edition).

19.42.020 Stormwater Management Facilities Required to Meet State Standards.

All facilities for stormwater management, whether intended to be dedicated to the City for ongoing maintenance and operation or intended to be retained in private ownership shall be designed and maintained as provided in the then-current edition of the Stormwater Management Manual for Western Washington published by the Washington State Director of Ecology.

19.42.030 Facilities within Shoreline Areas and Related to Shoreline Activities Required to Meet City Standards

All facilities and activities applied for under the provisions of this code that occur within areas covered by any Shoreline Environment Designation of the City of Sultan Shoreline Master Program are required to meet the procedural and substantive requirements of the then-current edition of the City of Sultan Shoreline Master Program whether intended to be dedicated to the City for ongoing maintenance and operation or intended to be retained in private ownership.

19.42.040 City Engineer to Determine Additional Standards and Specifications

When published standards and specifications do not address the particular issues presented by a development application, or where, for specific reasons documented with findings, the published standards and specifications do not adequately address the situation, the City Engineer shall be responsible for one of the following:

- A. Providing the standards and specifications that shall be used to address the situation.
- B. Requiring the Applicant to provide plans constructed and stamped by a third-party engineer of competent capacity for review by the City Engineer.

CHAPTER 19.44 LOT AVERAGING

Sections:

- 19.44.010 Purpose of lot averaging provisions.
- 19.44.020 Applicability of lot averaging.
- 19.44.030 Limitations on implementation of lot averaging.
- 19.44.040 Lot averaging calculation.
- 19.44.050 Development standards in developments utilizing lot averaging.

19.44.010 Purpose of lot averaging provisions.

- A. Much of the land designated by the Sultan comprehensive plan for residential development is not developable because of extensive wetlands and steep slopes that are protected by critical area regulations. Exclusion of these critical areas results in a net developable area that allows considerably fewer residential units than would be allowed if the entire property could be developed at standard zoning densities.
- B. Previously, the city accommodated this circumstance by using the planned unit development (PUD) process. The city finds that the PUD process was not an appropriate regulatory tool to provide necessary critical areas protection and the residential development that resulted from PUD development did not achieve desirable results.
- C. The city finds that lot averaging is an appropriate regulatory approach to protect critical areas.
- D. Lot averaging is an approach to dividing land that allows a parcel to be divided such that some or all of the resulting lots are smaller than the minimum lot size required in the applicable zone to accommodate the presence of extensive wetlands and critical areas.
- E. Lot averaging cannot result in a parcel being divided into a greater number of lots than would result from development at the normal minimum lot size required in the applicable zone. The total number of lots in a development implementing lot averaging cannot exceed the maximum number of lots allowed on the subject property by the applicable zone.
- F. Lot averaging does not assure that the number of lots available to a developer on a particular parcel will be the same as the number available if the property were not encumbered by critical area exclusions. It is provided as a mechanism to achieve full compliance with all critical area regulations while allowing a "safety valve" to allow development densities to get closer to the allowed zoned density on properties that have significant critical areas exclusions.

19.44.020 Applicability of lot averaging.

- A. Lot averaging provisions of this chapter apply to and may be used by developers of land who are dividing land in conformance with the provisions of this Title, and who meet the provisions set out in subsections (B) and (C) of this section.
- B. Lot averaging provisions of this chapter apply to and may be used by developers of land in the following zones:
 - 1. Low/moderate density, LMD: (SMC 16.12.010).
 - 2. Moderate density, MD: (SMC 16.12.020).
 - 3. High density, HD: (SMC 16.12.030).
- C. Lot averaging may be utilized, at the option of the developer, in the following circumstances:
 - 1. The property proposed for development is documented to contain more than 10 percent of its total land area in critical areas that must be excluded from development

under provisions of the city of Sultan critical areas regulations (Chapter 16.80 SMC) and any other applicable environmental codes. Such documentation must be provided in the form of a critical areas study approved by the city community development director to be in conformance with the standards of Chapter 16.80 SMC, Critical Areas Regulations (CAR).

2. The property proposed for development shall not be a parcel that has been configured, by short plats, boundary line adjustments and the like, in a way that artificially creates a parcel with more than 10 percent of its total area in critical areas so that the development can qualify for lot averaging.
3. The community development director will make an administrative determination that disallows application for lot averaging in cases where the community development director makes findings that the proposed development boundary has been artificially manipulated to create a development that purports to qualify for lot averaging through manipulation of boundaries to achieve a greater than 10 percent proportion of undevelopable critical areas. This administrative determination will be appealable to the hearing examiner under provisions of Chapter 2.26 SMC and other applicable provisions.

19.44.030 Limitations on implementation of lot averaging.

- A. Lot averaging only applies to creation of lots for detached single-family residences.
- B. Lot averaging shall not be used to create lots for duplexes or multifamily dwellings as defined by SMC 16.150.040.
- C. No single-family lot shall be reduced to less than 75 percent of the minimum single-family lot size required in the applicable zone (maximum reduction of 25 percent from required minimum lot size in the applicable zone).
- D. No single-family lot shall be reduced in width to less than 40 feet (regardless of lot depth).
- E. No single-family lot shall be reduced in depth to less than 70 feet (regardless of lot width).
- F. All of the following are to be subtracted from the net square footage of a lot for the purpose of determining the area of a lot proposed for lot averaging:
 1. Public right-of-way;
 2. Private roads, private primary access easement; and
 3. Minor portion (panhandle) of panhandle lots.
- G. The area of easements other than that of the primary access (public right-of-way or private easement) shall not be subtracted from the net square footage of a lot.
- H. This section shall not be implemented in conjunction with any provisions of the Sultan Municipal Code that allow density credits for set-asides of critical areas or environmentally sensitive areas.
- I. This chapter shall not be applied to properties of less than two acres.
- J. Developments utilizing lot averaging shall not receive preliminary or final approval as phased developments unless each phase meets the lot averaging standards for the total land area included in that phase.

19.44.040 Lot averaging calculation.

- A. The following calculation shall be used to determine the maximum number of lots available to a given development. The example provided is based on an 80-acre parcel with 20 acres of wetlands. The following calculations are to be used with the measurements and parameters that accurately represent the property proposed for development with lot averaging:
 1. A development application for lot averaging shall use this example set of calculations with the numbers that are descriptive of the parcel proposed for development. The following factors are used in the calculation of the maximum number of lots. Terms and

abbreviations in this section are defined as given the meaning provided to them as factors and results of the equations as provided below:

- (TLA) Total land area of subject development property
- (ROW) Public R-O-W or private access easement (specified by plat design) to be dedicated from within the TLA
- (SDF) Stormwater detention facilities
- (TCA) Total critical areas
- (CAE-10) Critical areas exclusion of 10 percent applicable to all projects
- (CALA) Critical areas allowed for lot averaging
- (GDA) Gross developable area
- (PDA) Potential developable area
- (MLS) Minimum lot size required in applicable zone for single-family residence
- (MPL) Maximum number of potential lots
- (NDA) Net developable area
- (NMLS) Net minimum lot size

2. Calculation of excluded wetlands and allowable wetlands is as follows:

- (TLA) = 80 acres
- (CAE-10) = (TLA) x 10% = 8 acres excluded from calculation
- (TCA) = 20 acres
- (CALA) = (TCA) – (CAE-10) = 12 acres

3. Calculation of net developable area is as follows:

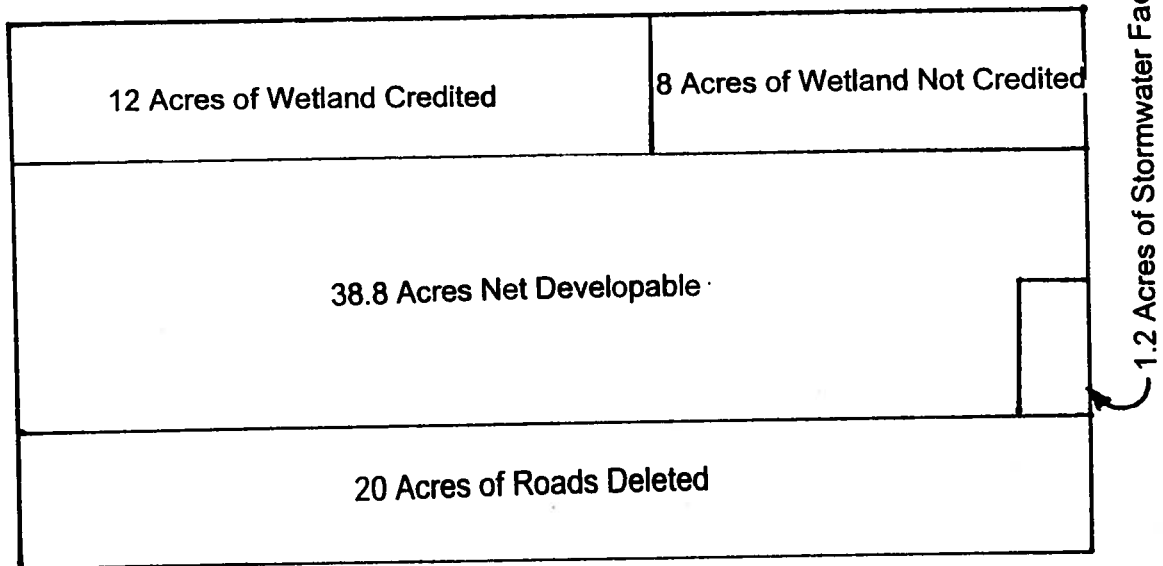
- (GDA) = (TLA) – (CAE-10) = 72 acres
- (ROW) = 20 acres
- (SDF) = 1.2 acres
- (PDA) = (GDA) – ((ROW) + (SDF)) = 50.8 acres

4. Calculation of actual lots is as follows:

- (PDA) = 50.8 acres
- (MLS) = 5,000 sq. ft.
- (MPL) = (NDA) ÷ (MLS) = 442 lots
- (CALA) = 12 acres
- (NDA) = (PDA) – (CALA) = 38.8 acres
- (NMLS) = (NDA) ÷ (MPL) = 3,823 sq. ft. per lot

B. The lot averaging calculation determines the maximum number of lots available. No development is guaranteed the maximum number of lots available by this calculation. The actual number of lots shall not exceed but may be fewer than the maximum potential lots (MPL) due to circumstances of the particular property. Properties with extensive critical area exclusions will not be able to achieve the density provided by the allowed minimum lot size in the applicable zone as the lot size resulting from the calculation would be smaller than the maximum 25 percent reduction provided by this chapter.

DIAGRAM OF HYPOTHETICAL 80-ACRE PARCEL WITH 20 ACRES OF WETLANDS.



Showing relative areas described in Option 3 with exclusion of 8 acres of wetland from Lot Averaging credit. This puts 50.8 acres worth of lots on 38.8 acres of land.

19.44.050 Development standards in developments utilizing lot averaging.

- A. Park facilities required for developments by the Sultan Municipal Code in general, and specifically Chapter 16.72 SMC, are required for land divisions without regard to their implementation of lot averaging standards of this chapter.
- B. Road standards required for development of land divisions by this Title are required in developments without regard to their implementation of lot averaging standards of this chapter.
- C. All standard utility improvements required for land divisions by this Title are required in developments without regard to their implementation of lot averaging standards of this chapter.
- D. All standards for lot layout, setbacks, access, easements, and any other development standard for individual lots required for land divisions by this Title are required in developments without regard to their implementation of lot averaging standards of this chapter.
- E. Modification of specific development standards as provided by this Title may be applied for and reviewed by the hearing examiner, but the fact that the development is proposing to implement lot averaging may not be used as a criterion or defense for proposing the modification.
- F. The hearing examiner shall not modify the results of the calculations of this chapter as described above, and shall not modify the minimum lot size reduction authorized by this chapter below the standard of a 25 percent reduction (75 percent of the required lot size) as provided in Section 19.44.030 (C) above.