

**CITY OF SULTAN  
ORDINANCE NO. 1154-12**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SULTAN, WASHINGTON, REPEALING SULTAN MUNICIPAL CODE CHAPTER 16.92 "STORMWATER MANAGEMENT PERFORMANCE STANDARDS" FROM TITLE 16, AND RE-ADOPTING SAID "STORMWATER MANAGEMENT PERFORMANCE STANDARDS" AS CHAPTER 17.14 WITH NUMBERING CHANGES REQUIRED FOR RE-ADOPTION, AND WITHOUT ANY SUBSTANTIVE CHANGES, PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, Sultan Municipal Code (SMC) Chapter 16.92 "Stormwater Management Performance Standards" provides environmental management for Stormwater issues; and

**WHEREAS**, The Sultan City Council and Planning Board are undertaking a major revision of SMC Title 16 Unified Development Code, with the goal of converting it to a stand-alone Zoning Code; and

**WHEREAS**, The presence of Chapter 16.92 "Stormwater Management Performance Standards" does not need to be located in the Zoning Code, but can be addressed by reference in the revised code ; and

**WHEREAS**, Sultan Municipal Code contains Title 17 "Environment" which is specifically dedicated to environmental management provisions; and

**WHEREAS**, Revision of Title 16 will be made easier if only zoning provisions are present, and are not confused with environmental management provisions that are more appropriately located in Title 17; and

**WHEREAS**, The Planning Board held a public hearing on this proposal at its regular meeting of June 19, 2012, and having considered all input received at that hearing, finds the proposal to be helpful to revision of Title 16, and overall organization of the Sultan Municipal Code; and

**WHEREAS**, The Planning Board has recommended approval of the proposal to repeal Sultan Municipal Code Chapter 16.92 "Stormwater Management Performance Standards" , and re-adopt the same provisions as SMC Chapter 17.14 "Stormwater Management Performance Standards" with no substantive changes and with the numbering changes necessary to include said chapter in Title 17;

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

**Section 1. Repeal of SMC Chapter 16.92 "Stormwater Management Performance Standards"**. Sultan Municipal Code Chapter 16.92 "Stormwater Management Performance Standards" is hereby repealed in its entirety.

**Section 2. Adoption of SMC Chapter 17.14 "Stormwater Management Performance Standards"**. Sultan Municipal Code Title 17 is hereby amended to include Chapter 17.14, "Stormwater Management Performance Standards" as follows:

## Chapter 17.14 STORMWATER MANAGEMENT PERFORMANCE STANDARDS

Sections:

- 17.14.010 Purpose and intent.
- 17.14.020 Exemptions.
- 17.14.030 Permit requirements – Waivers.
- 17.14.040 Stormwater management permits.
- 17.14.050 Automatic rejection of permit.
- 17.14.060 Application for preliminary review for modification to existing development.
- 17.14.070 Request for appeal.
- 17.14.080 Permit duration.
- 17.14.090 Plan adherence.
- 17.14.100 Maintenance.
- 17.14.110 Inspections.

**17.14.010 Purpose and intent.**

A. The purpose of this chapter is to protect, maintain and enhance both the immediate and the long-term health, safety, and general welfare of the citizens of Sultan, while allowing landowners reasonable use of their property.

B. The intent of this chapter is:

1. To protect the chemical, physical and biological quality of ground and surface waters.
2. To encourage the protection of natural systems and the use of them in ways which do not impair their beneficial functioning.
3. To perpetuate groundwater recharge.
4. To reduce erosion loss of valuable topsoil's and subsequent sedimentation of surface water bodies.
5. To protect the habitat of fish and wildlife.
6. To prevent significant loss of life and property due to flooding.
7. To reduce the capital expenditures associated with flood proofing and the installation and maintenance of storm drainage systems.
8. To minimize the adverse impact of development on the water resources of the city of Sultan.

C. The city acknowledges that under certain circumstances it will not be possible or practical to meet all of the objectives of this chapter. In these cases, developments will be evaluated to determine the methods and approaches by which the developer proposes to mitigate any adverse effects which may otherwise result from the practical inability to meet all of the objectives of these performance standards.

D. The city adopts the most recent Department of Ecology Stormwater Management Manual for the Puget Sound Basin. Said manual as it now reads or is hereafter amended is incorporated into the Sultan Municipal Code by this reference.

**17.14.020 Exemptions.**

A. General. For the purpose of these performance standards, the following activities shall be exempt from the formal permitting procedure of this chapter:

1. Maintenance work on utility or transportation systems; provided, such maintenance work does not alter the purpose and intent of the system as constructed.
2. Maintenance work performed on existing stormwater detention/retention structures and drainage channels for the purpose of maintaining public health and welfare.
3. Maintenance or renewal of existing pavement, or maintenance of existing buildings, or for small properties having an impervious surface area of 3,000 square feet or less.

B. Emergency Exemption. This chapter shall not be construed to prevent the accomplishing of any act necessary to prevent material harm to or destruction of real or personal property as a result of a present emergency, including but not limited to fire and hazards resulting from violent storms, or when the property is in imminent peril and obtaining a permit is impractical. For purposes of this code, action must be taken within 30 days of an emergency to qualify as an emergency exemption. A report of any emergency action shall be made to the community development director by the owner or person in control of the property on which the emergency action was taken as soon as practicable, but no more than 10 days following such action. Remedial action may be required by the director of community development.

**17.14.030 Permit requirements – Waivers.**

The permit requirements of this chapter may be waived by the community development director for certain small projects as enumerated herein which, by their nature, do not substantially change the total rate, volume, or quality of stormwater runoff within a drainage basin.

A. Applicability. The permit requirements of this chapter may be waived by the community development director for the following site development activities:

1. A single-family detached residence and accessory structures on a parcel of record, and not part of a residential subdivision development or not within a sensitive area.
2. The one-time construction or addition of any structure or pavement not exceeding 3,000 square feet of impervious area on or parallel to the ground.
3. The establishment of a seasonal parking facility pursuant to and in compliance with a conditional use permit obtained in accordance with Chapter 21.04 SMC. A waiver under this subsection once granted shall remain in effect so long as the permit holder does annual before and after soil testing at one location designated by the community development director and the results of said testing show the absence of hazardous materials at cleanup concentrations. If testing shows the presence of hazardous materials at concentrations requiring cleanup, the

community development director may revoke the waiver and/or may direct the permit holder to take such other actions as best management practices would require.

B. Stormwater Certifications. The permit requirements of this chapter may be waived by the community development director for those development activities meeting the criteria given in subsection (A) of this section; provided, the owner/developer files a notice of intent with the building permit application and files a letter of certification with the community development director, which contains the following:

1. The name, address and telephone number of the developer and owner(s).
2. A description of the improvement.
3. The address and legal description of the development.
4. A statement signed by the owner/developer that certifies that the development activity will:
  - a. Not obstruct the natural flow of stormwater runoff;
  - b. Not drain stormwater runoff onto adjacent lands or wetlands not now receiving runoff from the project;
  - c. Not concentrate the discharge of runoff onto adjacent lands in such a manner as to present a flooding hazard or cause soil erosion;
  - d. Not adversely affect adjacent lands and structures;
  - e. Provide a positive drainage outlet from the site;
  - f. Not adversely impact adjacent wetlands and/or watercourses; and
  - g. Employ measures to control soil erosion on the site.
5. Such other information as may be required by the community development director. A certificate of occupancy for any development activity may be withheld by the director of community development in cases where the owner/developer fails to provide the stormwater certifications given above or where it can be shown that the owner/developer has not completed the construction consistent with the statements contained in the certifications

#### **17.14.040 Stormwater management permits.**

A stormwater management permit shall be applied for and obtained from the community development director prior to commencement of development or redevelopment activity on land for which a permit waiver has not been issued and is described in 17.14.030.

A. Applicability. A stormwater management permit is required for the development or redevelopment on land with more than 3,000 square feet of impervious area (roof, parking, etc.).

B. Application for Stormwater Management Permit. Anyone desiring to develop land shall apply for a stormwater management permit. In addition, the applicant shall submit copies of the following items which shall be prepared by a registered professional engineer.

1. A location map showing the location of the site with reference to such landmarks as major water bodies, adjoining roads, estates, or subdivision boundaries.
2. A detailed site plan showing the location of all existing and proposed pavement and structures.
3. Topographic maps of the site before and after the proposed alterations.
4. Information regarding the types of soils and groundwater conditions existing on the site.
5. General vegetation maps of the site before development and a plan showing the landscaping to be performed as part of the project.
6. Construction plans and specifications necessary to indicate compliance with the requirements of these standards.
7. Runoff computations based on the most critical situation (rainfall duration, distribution, and antecedent soil moisture condition) using rainfall data and other local information applicable to the affected area.
8. Storage calculations showing conformance with the requirements of these standards.
9. Sufficient information for the director of community development to evaluate the environmental qualities of the affected waters, and the effectiveness and acceptability of those measures proposed by the applicant for reducing adverse impacts.
10. Such other supporting documentation as may be appropriate, including maps, charts, graphs, tables, specifications, computations, photographs, narrative descriptions, explanations, and citations to supporting references.
11. Additional information necessary for determining compliance with the intent of these standards as the director of community development may require.

C. Performance Standards. The performance standards for the development or redevelopment on parcels for which a stormwater management permit is required shall be as follows:

1. All projects shall provide treatment of stormwater. Treatment BMPs (best management practices) shall be sized to capture and treat the water quality design storm, defined as the six-month, 24-hour return period storm. The first priority for treatment shall be to infiltrate as much as possible of the water quality design storm, only if site conditions are appropriate and groundwater quality will not be impaired. Direct discharge of untreated stormwater to groundwater is prohibited. All treatment BMPs shall be selected, designed, and maintained according to the adopted Washington State Department of Ecology's Stormwater Management Manual.

Stormwater treatment BMPs shall not be built within a natural vegetated buffer, except for necessary conveyance systems as approved by the local government.

Stormwater discharges to streams shall control stream bank erosion by limiting the peak rate of runoff from individual development sites to 50 percent of existing condition two-year, 24-hour design storm while maintaining the existing condition peak runoff rate for the 10-year, 24-hour and 100-year, 24-hour design storms. As the first priority, stream bank erosion control BMPs shall utilize infiltration to the fullest extent practicable, only if site conditions are appropriate and groundwater quality is protected. Stream bank erosion control BMPs shall be selected, designed, and maintained according to an approved manual.

2. The cumulative impact of the discharge from the site on downstream flow shall be considered in analyzing discharge from the site.

3. Where possible, natural vegetation shall be used as a component of drainage design. The manipulation of the water table should not be so drastic as to endanger the existing natural vegetation that is beneficial to water quality.

4. Runoff from higher adjacent land shall be considered and provisions for conveyance of such runoff shall be included in the drainage plan.

5. No site alteration shall cause siltation of wetlands, pollution of downstream wetlands, or reduce the natural retention or filtering capabilities of wetlands. This shall be deemed to include the requirement that no herbicides, pesticides, or fertilizers may be used within 150 feet of any stream or aquifer recharge area.

6. Stormwater runoff shall be subjected to best management practice (BMP) according to the Washington State Department of Ecology's guidelines prior to discharge into natural or artificial drainage systems.

7. All site alteration activities shall provide for such water retention and settling structures and flow attenuation devices as may be necessary to ensure that the foregoing standards and requirements are met.

8. Design of water retention structures and flow attenuation devices shall be subject to the approval of the director of community development pursuant to the standards herein.

9. Runoff shall be treated to remove oil and floatable solids before discharge from the site in a manner approved by the director of community development.

10. Erosion by water shall be prevented throughout the construction process.

11. For the purpose of this section, it is presumed that the lowering of the water table to construct detention/retention basins and to permanently protect road construction does not conflict with the stated objectives of these standards, if all of the following are met:

a. The development site is not in a sole-source aquifer protection area or wellhead protection area.

b. If ditches, under drains or similar devices are used to lower the water table, the lateral volumetric effect will be calculated, and the volume will be deducted from that allowed for retention areas.

c. The high water table may be lowered to two feet below the undisturbed ground in the vicinity of roads for the purpose of protecting the sub-base and base of the roadway.

d. The lowering of the water table has no adverse effect on wetlands as defined in this section.

e. The lowering of the water table does not increase flows to the detriment of neighboring lands.

D. Review Procedure. The community development director will ascertain the completeness of the stormwater management permit application within 10 working days of receipt. Completeness shall only be insofar as all required exhibits have been submitted and shall not be an indication of the adequacy of these exhibits. Within 30 working days after the determination has been made that a completed permit application package has been submitted, the community development director shall approve, with specified conditions or modifications if necessary, or reject the proposed plan and shall notify the applicant accordingly. If the community development director has not rendered a decision within 60 working days after plan submission, the plan shall be deemed to be approved.

The community development director, in approving or denying a stormwater management permit application, shall consider as a minimum the following factors:

1. The characteristics and limitation of the soil at the proposed site with respect to percolation and infiltration.
2. The existing topography of the site and the extent of topographical change after development.
3. The existing vegetation of the site and the extent of vegetational changes after development.
4. The plans and specifications of structures or devices the applicant intends to employ for on-site stormwater retention or detention with filtration, erosion control and flow attenuation.
5. The impact the proposed project will have on the natural recharge capabilities of the site.
6. The impact the proposed project will have on downstream water quantity and, specifically, the potential for downstream flooding conditions.
7. The continuity of phased projects. (Projects that are to be developed in phases will require the submission of an overall plan for the applicant's total land holdings.)
8. The effectiveness of erosion control measures during construction.

9. Permits required by any governmental jurisdiction to be obtained prior to the issuance of a permit under this section.

10. The adequacy of easements for drainage systems in terms of both runoff conveyance and maintenance.

11. The method of handling upland flow which presently discharges through the site.

12. The maintenance entity responsibility for upkeep of the system upon its completion.

**17.14.050 Automatic rejection of permit.**

Should 60 working days elapse from the date of mailing by the city's appointed official a request for additional information or plan amendment without response by the applicant, or his/her engineer, the city may immediately deny the permit application based on the inadequacy of the information presented. A request by the applicant to hold the application in abeyance shall be considered for a period not to exceed one year from the date of the original application. If no additional information is received within that one-year period, city may deny the application based upon the information presented.

In the event that the plan is approved with specified conditions or modifications, the applicant shall then have the opportunity to amend the plan in accordance with the requirements of the hearing examiner within 60 working days following the mailing date of the request. In the event that the applicant does not comply with the hearing examiner's requirements within 60 working days, the city may deny the application based upon the inadequacy of the plan and information previously presented.

**17.14.060 Application for preliminary review for modification to existing development.**

A. General. Any persons proposing to make any change in the size of any existing structure may submit an application for preliminary review to the community development director to determine the requirement for a stormwater management permit. Those applications that shall be considered by the community development director must be within the following parameters:

1. There shall be no change in the volume of stormwater nor shall the rate of stormwater runoff be affected;
2. The construction of any structure not otherwise exempt shall not exceed 1,000 square feet of impervious surface on or parallel to the ground;
3. The development shall not consist of the construction of new paved area;
4. The development shall not consist of the construction of any drainage improvements; and
5. The development shall not involve the alteration of the shape of land.

B. Application Requirements. The application for preliminary review shall contain sufficient information regarding the proposed improvements to adequately define the features of the project which impact the location, rate and the volume of stormwater runoff. Such information shall include, but may not be limited to:



1. Name, address and telephone number of the applicant.
2. Location map, address, legal description of the proposed improvement.
3. Statement expressing the scope of the proposed project.
4. Schedule of proposed improvements.
5. Sketch showing existing and proposed structures, paving, and drainage patterns.
6. Erosion control and drainage plan.

C. Review Procedure. The application for preliminary review shall be reviewed by the community development director to determine whether a project is exempt, whether a permit waiver is possible or whether a water quality permit or stormwater management permit shall be required. Within 30 working days after receipt of the application for preliminary review, the community development director will notify the applicant whether the project is exempt or what further application procedures are to be followed.

**17.14.070 Request for appeal.**

If the applicant feels aggrieved due to rejection or modification, or any other action of the community development director, he or she may petition the hearing examiner for a hearing. Such petition shall be filed within 45 working days from the date of the mailing of the notice.

**17.14.080 Permit duration.**

Any development activity for which a permit is issued under this chapter that is not commenced within one year from the date of permit issuance and/or which is not complete within two years from the date of permit issuance shall automatically be null and void, unless otherwise extended by the hearing examiner.

**17.14.090 Plan adherence.**

The applicant shall be required to adhere strictly to the plan as approved. Any changes or amendments to the plan must be approved in writing by the community development director, in accordance with the procedures set forth in SMC 17.14.030 and 17.14.040. After the completion of the project, the community development director may require from the owner/applicant that the professional engineer in charge certify compliance with terms of the permit or submit as-built plans, if the completed project appears to deviate from the approved plan. The filing of an application for a permit shall constitute a grant and consent by the owner for enforcement officials to enter and inspect the project to ensure compliance with the requirements of this chapter.

**17.14.100 Maintenance.**

A. General. The installed on-site retention/detention systems and drainage facilities required by these standards shall be maintained by the owner. The owner shall be required to execute a written system maintenance agreement that shall permit the city of Sultana:

1. To have adequate ingress and egress to inspect the premises at reasonable times; and

2. If necessary, take corrective action should the owner fail to properly maintain the system(s).

B. Failure to Maintain. Should the owner fail to properly maintain the stormwater management system(s), the community development director shall give written notice to the owner of record as appears on the latest property tax rolls by certified mail of the nature of the violation and order the corrective action necessary. Should the owner fail, within 30 working days from the date of the notice, to take corrective action to the satisfaction of the community development director or appeal the notice and order, the city of Sultan may enter upon the lands, take such corrective action as the official may deem necessary, and place a lien on the property of the owner for the cost thereof.

C. City Maintenance. Certain off-site systems as may be identified by the city's stormwater management plan, which are to provide general public benefits, may be accepted by the city for maintenance. The selection of such systems to be maintained shall be made by the public works department. All areas and/or structures to be maintained by the city must be dedicated by plat or separate instrument and accepted by resolution of the city council.

**17.14.110 Inspections.**

A. The holder of any permit or approval issued subject to a detailed drainage plan shall arrange with the city engineer for scheduling the following inspections:

1. Initial Inspection. Whenever work on the site preparation, grading, excavations or fill is ready to be commenced, but in all cases prior thereto;
2. Rough Grading. When all rough grading has been completed;
3. Bury Inspection. Prior to burial of any underground drainage structure;
4. Finish Grading. When all work including installation of all drainage structures and other protective devices has been completed;
5. Planting. When erosion control planting shows active growth.

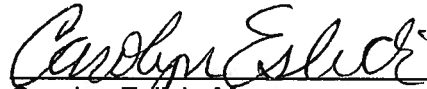
B. In certain circumstances, not all of the above inspections may be necessary. It shall be the discretion of the city engineer to waive or combine any of the above inspections as dictated by conditions. The city engineer shall inspect the work and shall either approve the same or notify the applicant in writing in which respects there has been failure to comply with the requirements of the approved plan. Any portion of the work which does not comply shall be promptly corrected by the applicant.

**Section 3. – Severability.** If any one or more section, subsection, or sentence of this ordinance is held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this ordinance and the same shall remain in full force and effect.

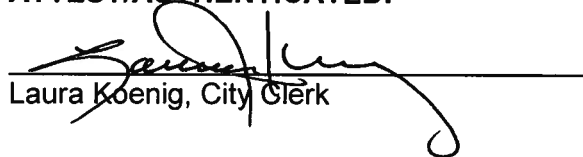
**Section 4. – Corrections by City Clerk or Code Reviser.** Upon approval of the City Attorney, the City Clerk and the code reviser are authorized to make necessary corrections to this ordinance, including the correction of clerical errors; references to other local, state or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering.

**Section 5. – 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.

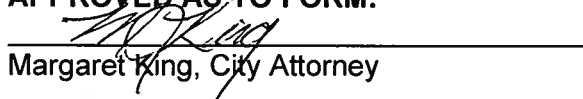
ADOPTED BY THE CITY COUNCIL OF SULTAN, WASHINGTON THIS 12<sup>th</sup> DAY OF JULY, 2012.

  
\_\_\_\_\_  
Carolyn Eslick, Mayor

**ATTEST/AUTHENTICATED:**

  
\_\_\_\_\_  
Laura Koenig, City Clerk

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Margaret King, City Attorney

Published: July 18, 2012

Effective: July 23, 2012