

**CITY OF SULTAN**  
**WASHINGTON**  
**ORDINANCE NO. 1118-11**

**AN ORDINANCE OF THE CITY OF SULTAN, WASHINGTON, REPEALING SECTION 16.108.120(D)(4) "CONCURRENCY MANAGEMENT SYSTEM" OF THE SULTAN MUNICIPAL CODE IN ITS ENTIRETY; REPEALING PROCEDURES FOR ISSUING CERTIFICATES OF CONCURRENCY OR DENIAL LETTERS FOR SEWER BASED ON PRIORITY USING THE TRAFFIC ANALYSIS ZONES ESTABLISHED IN THE 2008 REVISIONS TO THE 2004 COMPREHENSIVE PLAN; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE**

WHEREAS, the Growth Management Act, RCW 36.70A.020(12) and RCW 36.70A.070(6)(a)(iii)(B) and (b), requires communities to adopt levels of service for capital facilities and ensure that improvements or strategies to accommodate the impacts of growth and development are made concurrent with that growth and development; and

WHEREAS, State law provides guidelines for concurrency under WAC 365-196-840; and

WHEREAS, the City of Sultan requires concurrency for developments for which issuance of a threshold environmental determination or Environmental Impact Statements is required under the State Environmental Policy Act and the Sultan Municipal Code; and

WHEREAS, the City of Sultan adopted Ordinance No. 1085-10 establishing policies and procedures for determining and allocating capacity in the city's facilities to proposed developments consistent with the City's 2004 Comprehensive Plan, as revised in 2008; and

WHEREAS, the City has updated the Sultan Comprehensive Plan to insure compliance with changes to the Growth Management Act; to insure compliance with Vision 2040; the Puget Sound Regional Council Multi-County Planning Policies; Snohomish County Countywide Planning Policies; to fully reflect the issues and opportunities facing Sultan; and to revise policies and other language in the plan to update information, improve readability, and eliminate redundancy; and

WHEREAS, the 2011 Comprehensive Plan policies strive to create a better balance between housing and retail development by recognizing the environmental constraints in downtown and allowing for a mix of uses in the Highway Oriented Development zone; and

WHEREAS, the 2011 Comprehensive Plan also establishes a better link between Capital Facilities, Land Use, Transportation, and Housing; and

WHEREAS, the 2011 Comprehensive Plan provides clearer direction and requirements, such as requiring a feasibility plan to meet adopted level of service standards for all facilities for development prior to annexation; and

WHEREAS, the Planning Board held a public hearing on September 20, 2011 and reviewed proposed changes to the concurrency management system to be consistent with the 2011 Update to the Comprehensive Plan in accordance per RCW 36.70A.040(3) and (4); and

WHEREAS, no public testimony was given on the proposed amendments at the September 20, 2011 meeting, the Planning Board made a recommendation to the City Council to adopt proposed changes to SMC 16.108.120(D)(4) as presented by city staff; and

WHEREAS, the City Council held a public hearing on October 13, 2011 to take public testimony on the proposal to amend SMC 16.108.120(D)(4) "Concurrency Management System" to repeal procedures for issuing certificates of concurrency or denial letters for sewer based on priority using the traffic analysis zones established in the 2008 Revisions to the 2004 Comprehensive Plan; and

WHEREAS, no public testimony was given on the proposed amendments at the October 12, 2011 public hearing; and

WHEREAS, the City Council has determined that it is in the interest of the public health, safety and welfare to repeal Section 16.108.120(D)(4) of the Sultan Municipal Code to be consistent with and implement the 2011 Comprehensive Plan per RCW 36.70A.040(3) and (4);

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

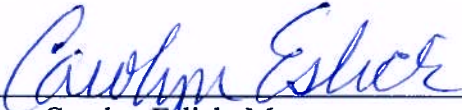
Section 1. Repealer. The existing SMC Section 16.108.120(D)(4) "Concurrency Management System" is hereby repealed in its entirety as set forth in Exhibit A.

Section 2. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be preempted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 3. 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 10<sup>TH</sup> DAY OF NOVEMBER 2011.

CITY OF SULTAN

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

ATTEST/AUTHENTICATED:

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

Approved as to form:

  
\_\_\_\_\_  
Margaret J. King, City Attorney

Ordinance: 1118-11

Passed by the City Council: 11-10-11

Date of Publication: 11-17-11

Effective Date: 11-22-11

**Chapter 16.108**  
**CONCURRENCY MANAGEMENT SYSTEM**

Sections:

- 16.108.010 Purpose.
- 16.108.020 Definitions
- 16.108.030 Exemptions.
- 16.108..040 Applications.
- 16.108050 Acceptance of a Concurrency Application
- 16.108.060 Nonbinding determinations.
- 16.108.070 Certificate of concurrency.
- 16.108.080 Standards for concurrency.
- 16.108.090 Facilities and services subject to concurrency.
- 16.108.100 Concurrency determination.
- 16.108.110 Concurrency determination – Potable water.
- 16.108.120 Concurrency determination – Wastewater.
- 16.108.130 *Reserved.*
- 16.108. 140 Concurrency determination – Parks and recreation.
- 16.108.150 Procedures for issuing a certificate of concurrency or denial letter
- 16.108.160 Reporting and monitoring

**16.108.010 Purpose.**

The purpose and intent of this chapter of the unified development code is to provide a regulatory mechanism to ensure that a property owner meets the concurrency provisions of the comprehensive plan for development purposes as required in RCW 36.70A.070. This regulatory mechanism will ensure that adequate public facilities at acceptable levels of service are available to support the development's impact.

**16.108.020 Definitions**

A. "Certificate of concurrency" is a document issued by the building and zoning official indicating that capacity to serve a proposed development was available to that development when the certificate was issued. The certificate of concurrency identifies available capacity based on the information submitted by the applicant and capacity information available to the city at the time the certificate is issued. A certificate of concurrency is not a guarantee that capacity will be

available at the time of development or vesting of system charges, connection fees and/or impact fees.

B. “Capacity” refers to the ability or availability of the city’s transportation, parks, water, and sewer facilities to accommodate new development or redevelopment without decreasing the city’s adopted level of service standards.

C. “Available capacity” represents a specific amount of capacity that may be needed by new users of the city’s transportation, parks, water and sewer facilities.

D. “Needed capacity” when a certificate of concurrency is issued, capacity is identified from the available capacity account to indicate the capacity needed to serve a particular development.

E. “Used capacity” capacity is considered used once the proposed development is constructed and an occupancy permit is issued.

#### **16.108.030 Exemptions.**

Any development that is categorically exempt from the requirement to prepare a threshold environmental determination or an Environmental Impact Statement (EIS) pursuant to the State Environmental Policy Act (SEPA) is also exempt from the requirement to apply for or obtain a certificate of concurrency under this chapter.

#### **16.108.040 Applications.**

A. Each applicant for a development approval, except those exempted from concurrency, shall submit an application for a certificate of concurrency along with the development approval application.

B. An application for a certificate of concurrency must be accompanied by the requisite fee, as determined by city council resolution. Applicants with projects requiring a certificate of concurrency are encouraged to schedule a pre-application meeting with city departments prior to submitting a development or certificate of concurrency application.

C. An applicant for a certificate of concurrency must submit the following information to the building and zoning official (“official”), on a form provided by the city together with the underlying development permit application requiring concurrency:

1. Date of Submittal
2. Owner/applicant’s name, address and telephone number and/or primary contact information if different from owner/applicant’s contact information
3. Project name
4. Project development schedule



5. Written consent of the property owner, if different from the developer
6. Acreage of the property
7. Legal description and parcel identification number(s) of property as required by the underlying development permit application together with an exhibit showing a map of the property.
8. Existing use of the property.
9. Proposed request of capacity by legal description, if applicable
10. Proposed uses(s) by land use category, square feet and number of units.
11. Proposed site design information, if applicable.
12. Phasing information by proposed uses, square feet and number of units, if applicable.
13. For transportation concurrency applications, a traffic study per 16.108.100.
14. The applicants' proposed mitigation, if any, for the impact on the city's transportation facilities.
15. Parks – The applicants' proposed mitigation, if any, for the impact on the city's parks facilities.
16. For water concurrency applications, a water hydraulic report prepared by a licensed professional engineer including fire flow requirements and water meter sizing for commercial projects.
17. For sewer concurrency applications, a sewer hydraulic report prepared by a licensed professional engineer including waste water composition for commercial projects.

#### **16.108.050 Acceptance of a Concurrency Application**

A. The building and zoning official or designee will notify an applicant for a certificate of concurrency within 28 days after receiving an application whether the concurrency application is complete or incomplete.

B. An application for a certificate of concurrency is “complete” when it meets the submission requirements listed in SMC 16.108.040. The determination of completeness will be made when the application is sufficiently complete for review even though additional information may be required or project modifications may be undertaken subsequently. The building and zoning official's determination of completeness will not preclude the official's ability to request additional information or studies.

C. Incomplete applications. Whenever the city issues a determination that the certificate of concurrency application is not complete, the application will be returned to the applicant with a letter stating the application's deficiencies and measures necessary to submit a complete application.

D. Date of acceptance. An application for a certificate of concurrency will not be officially accepted or processed until it is complete and the underlying development application has been determined to be complete. The building and zoning official will accept and note the date of acceptance of the application for the certificate of concurrency.

E. No development approvals will be granted unless the applicant is eligible for and obtains a certificate of concurrency.

#### **16.108.060 Nonbinding determinations.**

A. A nonbinding concurrency determination may be made by the City prior to a request for development action or approval by submitting a request and any applicable fee to the building and zoning official. Information required to obtain a nonbinding concurrency determination is the same as that required by SMC 16.108.040. The building and zoning official may require additional information in order to make a nonbinding concurrency determination. The nonbinding concurrency determination may become a part of the staff recommendation regarding the requested development action.

B. Any nonbinding concurrency determination, whether requested as part of an application for development, is a determination of what public facilities and services are available at the date of inquiry, but does not reserve capacity for that development.

C. The city shall charge a processing fee to any individual who requests a nonbinding concurrency determination not associated with an application for development approval or development action. The processing fee shall be nonrefundable and nonassignable to any other fees. Such fee shall be determined by resolution of the city council. The following types of development shall be exempt from paying the concurrency determination fee:

1. Nonprofit agencies whose primary chartered purpose is to provide affordable housing; and
2. Other governmental agencies.

#### **16.108.070 Certificate of concurrency.**

A. A certificate of concurrency shall be issued for a development approval, and remain in effect for the same period of time as the development approval with which it is issued. If the

development approval does not have an expiration date, the certificate of concurrency shall be valid for 12 months.

B. A certificate of concurrency is valid for the same term as the underlying development approval. If a development approval is be extended, the certificate of concurrency shall also be extended for the same period of time that the development approval is extended.

C. A certificate of concurrency may be extended by the building and zoning official to remain in effect for the life of each subsequent development approval for the same parcel, as long as the applicant obtains a subsequent development approval prior to the expiration of the earlier development approval.

D. A certificate of concurrency runs with the land, is valid only for the subsequent development approvals for the same parcel, and is transferable to new owners of the original parcel for which it was issued; provided, however, that the certificate of concurrency will be valid only for subsequent development approvals for the same parcel that were obtained prior to expiration of a prior development approval as set forth in SMC 16.108.070(C) above.

E. A certificate of concurrency shall expire if the underlying development approval expires or is revoked by the city.

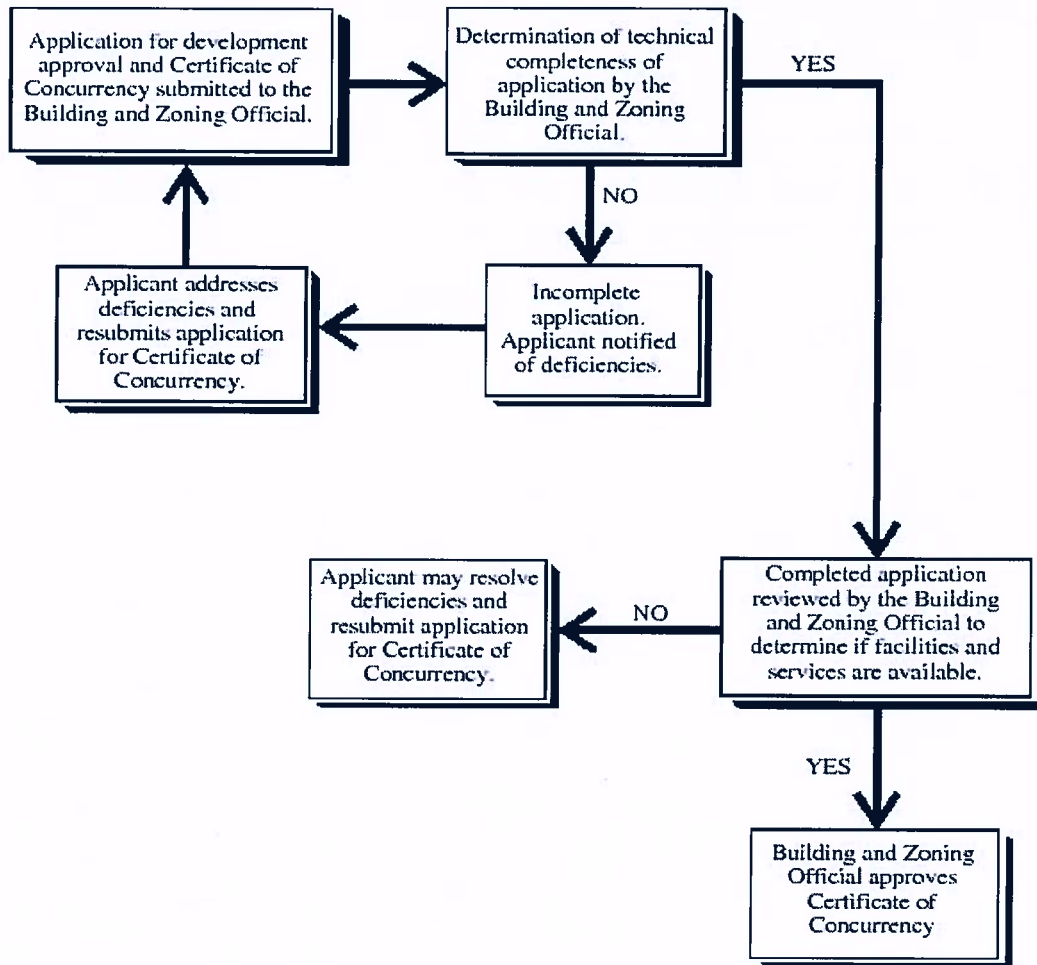
## **City of Sultan**

### **Concurrency Review Process**

#### **Request for Development Approval Certificate of Concurrency**



**(Binding)**



**16.108.080 Standards for concurrency.**

The city of Sultan shall review applications for development and a development approval will be issued only if the proposed development does not lower the existing level of service (LOS) of public facilities and services below the adopted LOS in the comprehensive plan. A project shall be deemed concurrent if one of the following standards is met:

A. The necessary public facilities and services are in place at the time the development approval is issued; or

B. The development permit is issued subject to the condition that the necessary public facilities and services will be in place concurrent with the impacts of development; or

C. The necessary public facilities and services are guaranteed in an enforceable development agreement to be in place concurrent with the development. "Concurrent with the development" shall mean that improvements or strategy are in place at the time of the development or that a

financial commitment is in place to complete the improvements or strategies within six years of the time of the development. If the financial commitments that underwrite the planned public facilities include impact fees, the applicant shall have paid all impact fees when due under the applicable provisions of the Sultan Municipal Code.

**16.108.090 Facilities and services subject to concurrency.**

A concurrency test shall be made of the following public facilities and services for which level of service standards have been established in the comprehensive plan:

- A. Transportation;
- B. Potable water;
- C. Wastewater;
- D. Parks and recreation.

**16.108.100 Concurrency determination – Transportation.**

A. Level of Service Standards. Transportation concurrency requires that the transportation impacts of land use development actions do not reduce the transportation levels of service (LOS) below the adopted standard.

1. The city’s comprehensive plan adopts a level of service “D” standard for city arterials while retaining the Washington State adopted level of service “D” for US 2 in compliance with state requirements and standards for Highways of Statewide Significance (HSS).
2. If the building and zoning official determines the proposed land use action will reduce the LOS below the adopted standard, either the development as proposed must be modified to reduce its transportation impact, or the corrective transportation improvements must be identified and constructed at the time of the development or within a six-year period.

B. Traffic Study. The developer shall prepare a traffic study. The level of detail and scope of a traffic study may vary with the size, complexity and location of the proposed development. A traffic study shall be a thorough review of the immediate and long-range effects of the proposed development on the city’s transportation system. The traffic study shall include the following basic data:

1. Provide a site plan drawn to appropriate scale of the proposal showing the road system, rights-of-way, type of roads, access points and other features of significance in the road system;
2. Vicinity map showing transportation routes to be impacted by the development;

3. Type of dwelling units proposed (single-family, multiple-family, attached, detached, etc.) and trip generation rates for the development. In cases of activity other than residential, the same type of information will be required (commercial, industrial, etc.);
4. Volume of traffic expressed in terms of average daily traffic on the roadway network that can reasonably be expected to be used by existing traffic and traffic from the development expressed in terms of current average daily traffic along with directional distribution (D factor), peak hour demand (K ratio) and percentage of trucks (T factor), in the traffic stream;
5. Physical features of the road network involved, with regard to functional classification, capacity, safety and operations;
6. A level of service analysis of the road system that can reasonably be expected to bear traffic generated by the development:
  - a. The level of service may generally assume conditions for two-lane highways without access control and at-grade intersections as defined in the highway capacity manual;
  - b. Level of service and volume to capacity ratio (v/c) is to be determined and indicated within the report, showing factors used and methodology;
  - c. Volume figures used shall consist of:
    - i. Current average daily traffic (ADT),
    - ii. Projected ADT at completion of proposal,
    - iii. Growth projection if completion is more than two years away;
7. The staged increase in traffic volumes on all transportation routes to be caused by the development as different phases are completed;
8. Traffic volumes shall be projected for 10 years into the future and, if a future phase of the development will extend beyond 10 years, to the time of completion of future phases of the development;
9. Other similar data that may be required to provide a complete and thorough analysis.

B. The city may also require that the traffic study include other information necessary for a thorough review of the immediate and long-range effects of the proposed development on the transportation system.

C. Procedures. The following procedures are used to determine transportation concurrency:

1. The building and zoning official will determine whether a proposed development can be accommodated within the existing or planned capacity of transportation facilities.
2. The building and zoning official will determine if the capacity of the city's transportation facilities, less the capacity which is needed, can be provided while

meeting the level of service standards set forth in the city's comprehensive plan.

3. The building and zoning official's determination of available capacity will be based on application materials, acceptable to the city, submitted by the applicant.
4. The building and zoning official will issue a transportation certificate of concurrency if capacity is available.
5. The transportation certificate of concurrency and underlying development application will be denied if the building and zoning official determines that the proposed development will cause the level of service of a city-owned transportation facility to decline below the standards adopted in the comprehensive plan, and improvements or strategies to accommodate the impacts of development are not planned concurrent with development.
6. If the level of service failure is on an arterial roadway, the applicant may perform one of the following measures; modify the development proposal to lessen the traffic impacts; volunteer to construct transportation improvements to mitigate the impacts; withdraw the certificate of concurrency application or take other corrective measures approved by the official. Other corrective measures may include:
  - a. Preparing a more detailed Highway Capacity Analysis, as outlined in the Highway Capacity Manual, Special Report 20 (1985 as amended) or other traffic analysis following procedures outlined by the Washington State Department of Transportation (WSDOT).

This more detailed study may include demand management strategies to accommodate the impacts of the proposed development such as increased public transportation service and ride-sharing programs.

- b. If the developer chooses to do a more detailed analysis as described above, the building and zoning official will:
  - i. Meet with the developer to review and accept or deny the more detailed highway capacity analysis methodology;
  - ii. Review the completed alternative analysis for accuracy and appropriate application of methodology;
  - iii. If the alternative methodology, after review and acceptance by the building and zoning official, indicates an acceptable LOS where the comprehensive plan indicates a LOS failure, the alternative methodology will be used, based on a binding or enforceable development agreement.



**16.108.110 Concurrency determination – Potable water.**

A. The city of Sultan will provide level of service (LOS) information as set forth in the city of Sultan comprehensive plan.

B. Standards for water system facilities are defined by WAC 246-290-100 and the “Water System Design Manual” published by the Washington State Department of Health.

1. The Water System Design Manual specifies that the minimum operating pressure in the water distribution system will not fall below 30 pounds per square inch (PSI) at the water meter, which is normally the right-of-way line for the served property.
2. In accordance with the National Fire Code, the city has established the minimum fire flow standard as 1,000 gallons per minute for residential areas and 1,500 gallons per minute for non-residential development.

C. The city will not extend water service to areas outside the Urban Growth Area (UGA) except in the case where a property has a documented water supply emergency.

D. The following procedures are used for determining water concurrency:

1. The building and zoning official or designee will determine whether a proposed development can be accommodated within the existing or planned capacity of the city’s water system.
2. The building and zoning official will determine if the capacity of the city’s water facilities, less the capacity which is needed, can be provided while remaining within the city’s level of service standards, and if so, will provide the applicant with a water certificate of concurrency.
3. The building and zoning official will deny the water certificate of concurrency and underlying development application, if there is no capacity in the city’s water system for the proposed project, and improvements or strategies to accommodate the impacts of development are not planned concurrent with development.

**16.108.120 Concurrency determination – Wastewater.**

A. Level of Service Standards. Standards for sewer system facilities are defined by WAC 173-240-050 and the “Criteria for Sewerage Works Design” published by the Washington State Department of Ecology. The Department of Ecology issues an NPDES permit to the city with



requirements for wastewater effluent quality and monitoring to ensure compliance with receiving water standards.

1. Designs for increasing the waste water treatment plant capacity in three phases are described in the 2006 *City of Sultan WWTP Upgrade Engineering Report* (“*Engineering Report*”). Until improvements are constructed, the size and design of the city’s waste water treatment plant limits the available sewer connections to accommodate future forecast flows and avoid violating the city’s National Pollution Discharge Elimination System permit (NPDES) issued by the Department of Ecology.
2. The sewer system will be designed to contain all sewage and extraneous flow that enters during a 10-year, 24-hour storm event.
3. Sewer capacity will be calculated with the pipe flowing full at the design pipe slope under projected peak conditions. The minimum pipe slope will be sufficient to maintain a velocity of 2 feet per second under flowing full conditions.

B. No new on-site sewage systems will be allowed in the city limits except as provided under SMC 16.16.045 where a property owner proposes to build one (1) single family home on an existing lot.

C. Where new sewer pipe is extended past a parcel with existing development using an on-site sewage system, the property owner will be required to pay the connection fee (general facilities charge) for the benefit conferred by the sewer pipe but will not be required to actually connect and pay monthly service charges unless or until the on-site system fails or the property owner wishes to connect.

D. In accordance with WAC 365-195-835 the following procedures are used to determine sewer concurrency :

1. The building and zoning official or designee will determine whether a proposed development can be accommodated within the existing or programmed capacity of the city’s sewer system set forth in Table 1 below.
2. The City will conduct an analysis of the remaining capacity of the City’s sewer treatment facilities and the foreseeable demand. The proposed development will be analyzed with respect to its size and density, quantity of utility service required (average flow and peak periods), special treatment or hazards involved, and compliance with applicable requirements of the Sultan Municipal Code and other codes. Provision of sewer service to the property shall not jeopardize public health or safety.

3. The building and zoning official will determine if the capacity of the city's sewer facilities and waste water treatment plant, less the capacity which is needed, can accommodate the proposed development while allowing city sewer service to remain within the city's level of service standards. If so, the building and zoning official will provide the applicant with a sewer certificate of concurrency.

~~4. The building and zoning official will allocate available sewer utility connections in the following order of priority using the Traffic Analysis Zones (TAZ) in the figure titled "Projected Increase in Population, Housing and Employment Estimates" in the City's 2008 adopted Comprehensive Plan and anticipated capacity estimates provided in the 2006 Waste Water Treatment Plant Engineering Report as may be revised:~~

~~i. Available waste water treatment plant capacity (including short term improvements at the Waste Water Treatment Plant, described in the 2006 Engineering Report, completed at the time of application) will be allocated only to:~~

~~a. Traffic Analysis Zones 2, 3, 4 and 5. Generally described as areas within the 2010 city limits east from the intersection of US 2 and the Sultan River to Eighth Street and the intersection of US 2 and Main Street; north from US 2 to the northern 2010 city limits; and~~

~~b. Traffic Analysis Zones 10, 11, 12, 13, 14, 15. Generally described as the area east and west of Sultan Basin Road, north of US 2 from the intersection of Main Street to approximately 330<sup>th</sup> Ave SE, and south of 132nd Street to the downtown core; and the area south of US 2 from Fifth Street to the east end of Cascade View Drive.~~

~~ii. Capacity provided by Phase I improvements to the waste water treatment plant will be allocated only to:~~

~~a. Traffic Analysis Zones 8, 9 and 16. Generally described as the area north of 132<sup>nd</sup> Street, west of 329<sup>th</sup> Avenue to the western 2010 city limits.~~

~~b. The area east and west of Sultan Basin Road north of 132nd Street to the Urban Growth Area limits;~~

~~c. Traffic Analysis Zones 19. Generally described as the area west of Rice Road to approximately 330<sup>th</sup> Ave SE; and north of 132<sup>nd</sup> Avenue; and~~

d. ~~Traffic Analysis Zone 21, 22, 23 which are parcels within the boundary of LID 97. Generally described as The areas east of 330<sup>th</sup> Ave SE, and south of 138<sup>th</sup> Street to the 2010 city limits.~~

iii. ~~Capacity provided by Phase II improvements to the waste water treatment plant will be allocated to:~~

a. ~~Traffic Analysis Zone 1. Generally described as the area west and north of the intersection of US 2 and the Sultan River to the city limits;~~

b. ~~Traffic Analysis Zones 6, and 7. Generally described as the area north of Osprey Park and west of the intersection of Trout Farm Road and 307<sup>th</sup> Ave SE; and~~

e. ~~Traffic Analysis Zone 20. Generally described as the area west of Rice Road (339<sup>th</sup> Street); east of 330<sup>th</sup> Street; south of 132<sup>nd</sup> Avenue; and north of 138<sup>th</sup> Avenue~~

iv. ~~In addition to the geographic capacity allocations described in subsection (D)(4)(i) – (iii) above, capacity of the city’s waste water treatment plant will also be allocated in accordance with the specified types of proposed development, as set forth in Table 1 below and in accordance with subsections (D)(4)(v) – (vii).~~

**Table 1 – Waste Water Treatment Plant – Anticipated Capacity Allocations**

<b>Phase</b>	<b>Additional ERU's Available</b>	<b>Commercial Capacity Account</b>	<b>Septic System Replacement Capacity Account</b>	<b>Residential Capacity Account</b>
Available ERU's + short-term improvements	254	105	25	124
Phase I	1300	145	255	900
Phase II	520	25	120	375
Phase III	1098	0	0	1098
<b>Total</b>	<b>3,172</b>	<b>275</b>	<b>400</b>	<b>2497</b>

~~v. An application for sewer concurrency will be placed in one of the three capacity account categories in the table above—commercial, septic system replacement or residential in the following order of priority:~~

- ~~1. Commercial Development within the boundaries of LID 97~~
- ~~2. Other commercial development~~
- ~~3. Single family residential development within the city limits that is currently served by on-site sewage systems (i.e. septic system)~~
- ~~4. Other residential development~~

~~vi. In the event requests for sewer certificates of concurrency for commercial development exceed the allocated account of available capacity, the building and zoning official will withdraw available capacity first from the residential capacity account.~~

~~1. If the residential capacity account is exhausted, the building and zoning official will withdraw available capacity from the septic system replacement account.~~

~~2. In order to ensure enough total capacity to meet the population and employment allocations in the comprehensive plan, any withdrawals from the accounts for residential development will be replaced in future phases to ensure the total capacity allocated to each account for Phases I—III does not change.~~

~~vii. The building and zoning official will deny the sewer certificate of concurrency and underlying development application, if there is insufficient allocated capacity in the city's sewer system as determined by Table 1 (**Waste Water Treatment Plant—Anticipated Capacity Allocations**) above for the type of development proposed and for the TAZ in which the development is proposed, and improvements or strategies to accommodate the impacts of development and provide the sewer capacity needed by the proposed development are not planned to be constructed concurrent with development.~~

**16.108.130 Reserved.**

**16.108.140 Concurrency determination – Parks and recreation.**



A. The city of Sultan will provide level of service (LOS) information as set forth in the city of Sultan comprehensive plan.

B. The following procedures are used for determining park concurrency.

1. The building and zoning official will determine whether a proposed development can be accommodated within the existing or planned capacity of parks facilities.
2. The building and zoning official will determine if the capacity of the city's parks facilities, less the capacity which is needed, can be provided while meeting the level of service standards set forth in the city's comprehensive plan.
3. The building and zoning official's determination of available capacity will be based on application materials, acceptable to the city, submitted by the applicant.
4. The building and zoning official will issue a parks certificate of concurrency if capacity is available.
5. The parks certificate of concurrency and underlying development application will be denied if the building and zoning official determines that the proposed development will cause the level of service of a city-owned parks facility to decline below the standards adopted in the comprehensive plan, and improvements or strategies to accommodate the impacts of development are not planned concurrent with development.

#### **16.108.150 Procedures for Issuing a Certificate of Concurrency or Denial Letter**

A. Issuing a Certificate of Concurrency

1. Prior to the issuance of a water and/or sewer certificate of concurrency, the applicant will pay an administrative fee, as determined by city council resolution, for each water and sewer connection required by the applicant.
2. A certificate of concurrency is a letter or other form prepared by the building and zoning official and sent to the applicant. If the applicant is not the property owner, the letter will also be sent to the property owner. The certificate of concurrency will include:
  - a. Primary applicant contact information (name, address, phone number, e-mail etc.).
  - b. The property address.



- c. The parcel identification number(s).
  - d. Name of project.
  - e. The number and type of dwelling units, square footage of commercial or industrial floor area, specific uses, densities, and intensities for which application(s) were approved.
  - f. The effective date of the certificate of concurrency.
  - g. The expiration date of the certificate of concurrency.
  - h. Any mitigation required by the applicant at the applicant's cost for concurrency.
  - i. The number of water and sewer connections, if any, allocated by the City of Sultan and any deposit payments made by the applicant.
3. If a proposed development project is modified during the review process and results in an increased capacity need, then a new concurrency application, application fee, evaluation, and approval will be required prior to development approval and issuance of certificate of concurrency.

B. Denial Letter

1. If the building and zoning official determines there is a lack of concurrency, the official will issue a denial letter which will advise the applicant that capacity is not available. If the applicant is not the property owner, the denial letter will also be sent to the property owner.
2. At a minimum, the denial letter will identify the application and options available to the applicant, such as the applicant's agreement to construct necessary facilities at the applicant's cost to maintain the city's adopted levels-of-service
3. The denial letter will include a statement that the denial letter may be appealed to the Hearing Examiner in accordance with SMC 16.120.100 if the appeal is submitted to the building and zoning official within 10 days after the issuance of the denial letter. If an appeal is filed, future processing on the underlying development application will be stopped until the final decision on the appeal.

**16.108.160 Reporting and Monitoring**

- A. The building and zoning official or designee is responsible for completion of transportation, water and sewer capacity availability reports. These reports will evaluate

reserved capacity and permitted development activity for the previous period, and determine existing conditions with regard to available capacity for road, parks, sewer and water facilities.

- B. The capacity report will include capacity used for the previous period and capacity available based on level of service standards and available information.
- C. Capacity forecasts will be based on the most recently updated schedule of capital improvements, growth projections, fire flow, limits of the NPDES permit, public road facility inventories, and revenue projections. At a minimum the report should include:
  - 1. A summary of development activity;
  - 2. The status of capacity accounts;
  - 3. Recommendations on amendments to the capital improvement plan, annual budget, level of service standards, and/or other comprehensive plan;
  - 4. Available water flow, plant capacity and fire flow measures; and
  - 5. Limits in the city's NPDES permit and finding of available capacity in the city's wastewater treatment plant.
- D. The findings of the annual capacity availability report may be considered by the council during the budget process.
- E. The building and zoning official will use the findings of the capacity availability report to review development permits and capacity evaluations during the next period.