

Appendix C

Administration and Enforcement and Penalties

Sultan Municipal Code 16.120

(Ord. 630 § 2)

Sultan Municipal Code 16.132

(Ord. 630 § 2 – 1995)

Chapter 16.120 *ADMINISTRATION*

16.120.030 Permits, terms and conditions.

A. Any development permit that is issued shall be subject to the terms and conditions imposed by the building and zoning official to ensure that such development will be in accordance with the provisions of this unified development code.

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

C. Permit Commencement and Expiration. Any development approved pursuant to this code shall be commenced, performed, and completed in compliance with the provisions of the permits for such development stipulated by the building and zoning official, planning commission, or city council. Any development approved by a permit shall be commenced within 36 months from the date such permit is issued. Failure to complete substantial development within such period shall cause the permit to lapse and render it null and void. No extensions shall be granted. For purposes of this section, a permit shall be considered issued on the date it is signed by the building and zoning official.

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

16.120.040 When permit is not required or may be waived.

A. Notwithstanding any provision in this unified development code to the contrary, no minor development permit shall be required pursuant to this code for activities related to the repair or maintenance of an object or facility, where such activities shall not result in an addition to or enlargement

or expansion of such object or facility. However, this does not preclude the requirement for a building permit for such activity.

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

16.120.060 Application for development permits.

All applications for development permits shall contain at least the following information; provided, however, that the applicant may request a waiver of any of the following requirements. Unless the applicant can prove to the satisfaction of the building and zoning official's office that a waiver is appropriate, he or she shall supply the following information:

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

1. Topographical features showing present grades and any proposed grades if present grades are to be altered. Unless otherwise required by the building and zoning official, contours at an interval not greater than five feet shall be shown;

2. Property boundary lines and dimensions including any platted lot lines within the property;

3. Location and dimensions of all existing and proposed buildings, including height in stories and feet and including total square feet of ground area coverage;

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

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

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

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

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

9. Proposed surface stormwater drainage treatment;

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

11. Location and designation of any open storage space.

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

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

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

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

C. Any other information as may be required by the building and zoning official to determine that the application is in compliance with this unified development code shall be furnished, including but not limited to wetlands, aquifer or groundwater recharge zones, floodplains, elevations, profiles, perspectives,

sign placement, vegetation, landscaping, or any other material necessary for a complete understanding of the application.

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

16.120.070 Regulations.

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

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

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

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

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

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

F. Contents of permits;

G. Notifications of decisions on applications;

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

I. Modification and revocation of permits; and

J. Transfer or assignment of permits. (Ord. 630 § 2[16.08.020(8)], 1995)

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

A. A land use development permit, following the process identified in SMC [16.120.050](#), shall be granted by the city planner, or the city council upon acceptance of the recommendation of the hearing

examiner, as the case may be; provided, that it is found, based upon substantial evidence in the record, that the development complies with each of the following criteria:

1. The development is consistent with the goals, policies, requirements, and performance standards of this unified development code and other applicable laws and regulations;

2. The development project as proposed incorporates, to the maximum extent feasible, mitigation measures to substantially lessen or eliminate all adverse environmental impacts of the development; and

3. The applicant has presented certification that the applicant has filed and paid all taxes, penalties and interest, and that the applicant has satisfactorily made agreement to pay the taxes.

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

1. Comply and perform to all conditions of approval; and

2. Carry out minimum improvements in accordance with the provisions of this unified development code and all standards of this title.

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

1. Comply with all conditions of approval and carry out all minimum improvements as required to the satisfaction of the council;

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

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

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

16.120.090 Occupancy permit.

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

B. No change or extension of use or no alteration shall be made in a nonconforming use of a building or land or water area without a building permit having first been issued by the building and zoning official that such change, extension or alteration is in conformity with the provisions of this code.

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

1. To the city as-built drawings reflecting any changes to previously approved construction drawings. No changes in improvements may be made without prior approval of the city council;

2. To the utility superintendent and fire department, two copies of the plat and drawings showing the actual location of all mains, hydrants, valves and other fire improvements;

3. A statement sworn to by the subdivider and his registered engineer that the drawings show the actual location of the improvements required to be shown therein. No occupancy permit shall be issued until any and all required as-built plans have been submitted and approved by the building and zoning official.

D. Within 10 days from the date that an applicant requests, in writing, that an occupancy permit be issued on his/her development project, the building and zoning official shall render a decision as to whether or not said occupancy permit is to be issued. If the decision is not to issue the occupancy permit, the building and zoning official shall so notify the applicant including the reasons for denial of the permit. If no occupancy permit has been issued within 10 working days of the written request thereof, and the building and zoning official has not informed the applicant of approval or denial, in writing, it shall be deemed that the building and zoning official approves the request and the applicant may legally occupy the premises. (Ord. 630 § 2[16.08.040], 1995)

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

Notwithstanding any provision of this unified development code to the contrary, any aggrieved person may file an appeal of a decision or action by the building and/or zoning official taken pursuant to this code within 10 calendar days thereof with the hearing examiner, and such appeal shall be governed solely by the provisions of this section.

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

B. Effect of Filing on Appeal. The filing of a notice of appeal shall stay any proceedings in furtherance of the action appealed, unless the building and zoning official certifies in writing to the city council and the applicant that a stay poses an imminent peril to life or property, in which case the stay shall not stay further proceedings. The hearing examiner may review such certification and grant or deny a stay of the proceedings.

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

D. Rights of Parties. Consistent with rules adopted by the hearing examiner, appeal hearings before the hearing examiner shall allow the parties to:

1. Call and examine witnesses on any matter relevant to the issues of the hearing;
2. Introduce documentary and physical evidence;
3. Impeach any witness regardless of which party first called them to testify;
4. Rebut evidence against them;

5. Represent themselves or be represented by anyone of their choice who is lawfully permitted to serve in such capacity. (Ord. 769-01 §§ 1, 2, 3; Ord. 630 § 2[16.08.050], 1995)

16.120.110 Calculation of time – Delivery – Notice to parties – Filing with the hearing examiner.

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

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

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

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

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

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

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

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

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

D. In the event the statement specified in subsection C of this section contains an error, the party relying on the statement shall be entitled to the longer time. Therefore, if the “last date” in the statement is earlier than the time as calculated under this section, the party shall be entitled to the time provided by this section. But if the “last date” in the statement is later than the date that would be calculated under this section, the party shall be entitled to, and the actual time shall be extended to the date and time set out in the statement; provided, however, that if the error is in the statement of the year, the correct year shall apply.

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

Chapter 16.132
ENFORCEMENT AND PENALTIES

16.132.010 Administration.

The building and zoning official, or his duly authorized representative, is authorized to utilize the procedures of this code to enforce against violations of any land use or other code within his administrative jurisdiction. The building and zoning official shall have the power to render interpretations of this title and to adopt and enforce rules and supplemental regulations to clarify the application of its provisions. Such interpretations, rules and regulations shall be in conformance with the intent and purpose of this code. (Ord. 630 § 2 [16.14.010], 1995)

16.132.020 Declaration of nuisance.

All violations of this unified development code are determined to be detrimental to the public health, safety and welfare, and are nuisances. All conditions which are determined by the building and zoning official or his duly authorized representative to be in violation of this code shall be subject to the provisions of this title and shall be corrected by any reasonable and lawful means, as provided in this title. (Ord. 630 § 2[16.14.020], 1995)

16.132.030 Right of entry.

A. Whenever necessary to make an inspection to enforce or determine compliance with the provisions of this unified development code, or whenever the building and zoning official or his duly authorized inspector has cause to believe that a violation of this code has been or is being committed, an inspector may enter any building, structure, property or portion thereof at reasonable times to inspect the same.

B. If such building, structure, property or portion thereof is occupied, the inspector shall present identification credentials, state the reasons for the inspection, and demand entry.

C. If such building, structure, property or portion thereof is unoccupied, the inspector shall first make a reasonable effort to locate the owner or other persons having charge or control of the building, structure, property or portion thereof and demand entry. If the inspector is unable to locate the owner or other such persons, and has reason to believe that conditions therein create an immediate and irreparable land use or safety hazard, he shall make entry.

D. It is unlawful for any owner or occupant or any other person having charge, care, or control of any building, structure, property, or portion thereof, after proper demand has been given, to fail or neglect to permit prompt entry thereon.

E. Unless entry is consented to by the owner or person in control of any building, structure, property or portion thereof or conditions are believed to exist which create an immediate and irreparable land use or safety hazard, the inspector, prior to entry, shall obtain a search warrant as authorized by applicable law. (Ord. 630 § 2[16.14.030], 1995)

16.132.040 Abatement proceedings – Authorized.

In addition to or as an alternative to any other judicial or administrative remedy provided in this chapter or by law or other code, the building and zoning official or duly authorized representative may order a violation of this code to be abated. The building and zoning official or duly authorized representative may order any person who creates or maintains a violation of this code, or rules and regulations adopted thereunder, to commence corrective work and to complete the work within such times as the building and zoning official determines reasonable under the circumstances. If the required corrective work is not commenced or completed within the time specified, the building and zoning official or duly authorized representative may proceed to abate the violations and cause the work to be done. The costs thereof shall be charged as a lien against the property and as both a joint and separate personal obligation of any person who is in violation. (Ord. 630 § 2[16.14.040], 1995)

16.132.050 Abatement proceedings – Legal relief.

Notwithstanding the existence or use of any other remedy, the building and zoning official may seek legal or equitable relief to enjoin any acts or practices or abate any conditions which constitute or will constitute a violation of this unified development code or rules and regulations adopted thereunder. (Ord. 630 § 2[16.14.050], 1995)

16.132.060 Technical review committee.

A. There is established the enforcement technical review committee consisting of two designated representatives from the council and two representatives from the planning commission and the building official. The committee shall meet as required to carry out the functions specified in this title.

B. The functions of the committee are to provide oversight to the decisions of the building and/or zoning official to assure coordinated enforcement in cases involving multiple violations and to assure consistent and proportional enforcement of the city's code. (Ord. 769-01 § 4; Ord. 630 § 2[16.14.060], 1995)

16.132.065 Appeals.

All appeals shall be heard by the hearing examiner upon filing a notice of appeal in accordance with SMC [16.120.100](#). The provisions of SMC [16.120.100](#) shall apply to any appeal, except the notice provisions of SMC [16.120.100\(A\)](#) shall not apply. The notice provisions of SMC [16.124.010](#) also shall not apply. The decision of the hearing examiner shall be final, subject only to a right of appeal to the superior court under the provisions of the Land Use Petition Act. (Ord. 769-01 § 5)

16.132.070 Misdemeanor.

As an alternative to any other judicial or administrative remedy provided in this title or by law or other code, any person who fully or knowingly violates the rules and regulations of this unified development code adopted thereunder, or any order issued pursuant to this code, or by each act of commission or omission procures, aids, or abets such violation, is guilty of a misdemeanor and upon conviction shall be punished by a fine, the amount of which shall be established by city council resolution. Each day such violation continues shall be considered an additional misdemeanor offense. (Ord. 630 § 2[16.14.070], 1995)

16.132.080 Civil penalties – Procedures.

A. Any person or organization who violates the rules and regulations of this unified development code, or who, by any act of commission or omission procedures, aids or abets such violation shall be subject to civil penalties as provided in this chapter.

B. Civil penalties may be directly assessed by the building and zoning official by means of a notice and order issued pursuant to Chapter [16.136](#) SMC or may be recovered by legal action filed in the appropriate court of jurisdiction by the prosecuting attorney on behalf of the city.

C. Civil penalties assessed by means of a notice and order shall be collected in accordance with the lien, personal obligation, and other procedures specified in this title. Civil penalties assessed in a legal action in the appropriate court of jurisdiction shall be collected in the same manner as judgments in civil actions. (Ord. 630 § 2[16.14.080], 1995)

16.132.090 Civil penalties – General requirements.

A. Any person engaged in the development, management, sale, rental, or use of property solely for the purpose of financial gain shall be deemed to be engaged in noncommercial ventures for purposes of this chapter.

B. Each and every day or portion thereof during which any violation is committed, continued, permitted, or not corrected shall be deemed a violation for purposes of this code. Civil penalties for failure to obtain any required permit shall begin to accrue on the first day activity subject to the permit requirement is commenced and shall cease to accrue on the day the permit is obtained. Civil penalties for violation of any order to cease violation shall begin to accrue on the first day the said order is posted and shall cease on the day the violation is actually stopped. (Ord. 630 § 2[16.14.090], 1995)

16.132.100 Civil penalties – Schedules.

A. A civil penalty for a violation of this unified development code by a person engaged in commercial ventures as defined in SMC [16.132.080](#) shall be assessed at a rate to be established by city council resolution.

B. A civil penalty for a violation of a person engaged in noncommercial ventures as defined in SMC [16.132.080](#) shall be assessed at the rate established by city council resolution. (Ord. 630 § 2[[16.14.100](#)],