

**CITY OF GRANITE FALLS,  
WASHINGTON**

**ORDINANCE NO. 1021-2022**

**AN ORDINANCE OF THE CITY OF GRANITE FALLS, WASHINGTON,  
AMENDING PORTIONS OF THE GRANITE FALLS MUNICIPAL CODE  
TITLE 19 UNIFIED DEVELOPMENT CODE; BY ADDING A NEW  
CHAPTER 19.12 ENTITLED “CONCURRENCY AND ADEQUACY”;  
ESTABLISHING SEVERABILITY, AND AN EFFECTIVE DATE.**

**WHEREAS**, the Revised Code of Washington (RCW) 36.70A.470(2) stipulates that all cities planning under the Growth Management Act (RCW 36.70A.040) shall provide procedures for any interested citizen or agency to suggest comprehensive plan and development regulation amendments; and

**WHEREAS**, the suggested amendments are to be processed consistent with Section 19.04.130(D) of the Granite Falls Municipal Code; and

**WHEREAS**, under the State Growth Management Act (GMA), the City is authorized to adopt current zoning amendments to implement its Comprehensive Plan; and

**WHEREAS**, amendments to the zoning code are required to ensure consistency with the Comprehensive Plan; and

**WHEREAS**, Ordinance 1015-2021 imposed a sewer moratorium within the city of Granite Falls and adopted interim Concurrency and Adequacy regulations to address the current sewer moratorium for the City of Granite Falls; and

**WHEREAS**, the City of Granite Falls is still in the process of determining how to handle the current deficiencies within the sewer treatment facility; and

**WHEREAS**, the city has declared a public emergency be imposed regarding the filing and processing of applications for certain development activities within the City limits in order to ensure that the sewer system capacity within the City is not exceeded which could result in significant adverse impacts and consequences to public health, safety, welfare and property; and

**WHEREAS**, a permanent regulation should be adopted once interim regulations are no longer in place to address connection to the City’s sewer system with exceptions in order to ensure that the sewer system capacity within the City is not exceeded which would result in significant adverse impacts and consequences to public health, safety, welfare and property; and

**WHEREAS**, on January 12, 2021, February 9, 2021, March 9, 2021, April 13, 2021, and July 13, 2021 the Granite Falls Planning Commission reviewed the amendments set forth in this Ordinance during the amendment process; and

**WHEREAS**, the City of Granite Falls SEPA Responsible Official reviewed the amendments and issued a Determination of Non-significance (DNS) on June 30, 2021; and

**WHEREAS**, the Planning Commission held a public hearing on the proposed amendments at their October 12, 2021 and December 14, 2021 meetings via Zoom. No members of the general public were present, and no comments were received regarding the amendments; and

**WHEREAS**, the Planning Commission made a recommendation to the City Council to accept the proposed 2021 Development Regulations as prepared by staff and the consultant; and

**WHEREAS**, public notice as required by law was given for all public hearings, notifying the general public of their opportunity to provide public input concerning the proposed amendments set forth in this Ordinance; and

**WHEREAS**, pursuant to RCW 36.70A.106, the City has notified the Washington State Department of Commerce of the City's intent to adopt the proposed amendments as set out in this ordinance; and

**WHEREAS**, Chapter 19.04 is being repealed by separate ordinance but Ordinance 1015-2021 is not being repealed and in fact further interim regulation may be adopted;

**WHEREAS**, the City Council has determined that it is in the best interest of the City to amend Title 19 to address the filing and processing of applications for certain development activities within the City limits with exceptions and to presently limit further connections to the City sewer system within the City in order to ensure that the sewer capacity within the area is not exceeded;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GRANITE FALLS DO HEREBY ORDAIN AS FOLLOWS:**

**Section 1.** A new GFMC Chapter 19.12 entitled "Concurrency and Adequacy" is hereby adopted and added to Title 19 to read as follow:

**Chapter 19.12  
CONCURRENCY AND ADEQUACY**

Sections:

- 19.12.010 Interim Regulations.
- 19.12.012 Concurrency and adequacy.
- 19.12.015 Purpose.
- 19.12.020 Authority.
- 19.12.025 Exemptions.
- 19.12.030 Concurrency procedures.
- 19.12.035 Check for adequacy.
- 19.12.040 Approval or Denial of Permits.
- 19.12.045 Concurrency Test Request without Application.

### **19.12.010 Interim Regulations**

The re-adoption of this section does not repeal current or future interim regulations related to concurrency and adequacy presently adopted and renewed, extended, readopted or imposed due to capacity limitations at the City's wastewater treatment plant. Those interim regulations presently are contained in Ordinance 1015-2021, which shall remain in effect despite the adoption of this chapter and technical amendments for cross references read as follows:

### **Interim Concurrency Regulations**

#### **19.12.012 Concurrency and adequacy.**

(A) Intent. The purpose of this section is to ensure that public facilities and services owned, operated, or provided by the city and public facilities and services owned, operated or provided by other governments, special districts and applicable organizations within the city are provided simultaneous to or within six years after development occurs consistent with, available capacity, the capital facilities element of the comprehensive plan and RCW 36.70A.070(3). This chapter shall apply to all applications for development or redevelopment permit approvals that will result in:

- (1) More than 10 new p.m. peak hour vehicle trips; and
- (2) Two or more connections or two SFR equivalent connections to city water and/or sanitary sewer systems.

(B) Authority. The designated official shall be responsible for enforcing the provisions of this chapter.

(C) Exemptions. The test for concurrency shall not be required for exempted developments as specified below:

- (1) Highways of statewide significance (HSS) are exempt from this concurrency section.
- (2) No Impact. Development which creates little or no additional impacts on public water, sanitary sewer, surface water management, streets, schools and parks are exempt from the test for concurrency. Such development includes but is not limited to:
  - (a) Additions, accessory structures, or interior renovations to or replacement of a residence which do not result in a change in use or increase in the number of dwelling units or residential equivalents;
  - (b) Additions to or replacement of a nonresidential structure which do not result in a change in use, expansion in use, or otherwise increase demand in public facilities as defined above;
  - (c) Temporary uses as described in GFMC 19.04C.060; and
  - (d) Demolitions.
  - (e) Commercial development in the General Commercial zone subject to available capacity at time of complete application submittal.
  - (f) Construction of a single family residence or a duplex on an existing lot

(3) Variances as provided elsewhere in this section.

(4) Permits and Actions. The following are exempt from the test for or a new test for concurrency:

- (a) Boundary line adjustments;
- (b) Temporary use permits;
- (c) Variances and shoreline variances;
- (d) Approvals pursuant to site development regulations;
- (e) Administrative interpretations;
- (f) Sign permits;
- (g) Street vacations;
- (h) Demolition permits;
- (i) Street use or right-of-way permits;
- (j) Clearing, grading, and excavation permits;

- (k) Mechanical, electrical and plumbing permits;
- (l) Fire code permits;
- (m) Other permits as determined by the city that will not result in impacts on public services or utilities.
- (n) Permits or applications for which the City has contractually committed to sewer availability, including but not limited to approved preliminary subdivisions, short plats or binding site plans as of the date of this Ordinance;
- (o) New sewer service to properties that paid assessments as part of local improvement districts established prior to the effective date of this Ordinance for the purpose of providing sewer;
- (p) All projects (if any) that have vested rights to new sewer connections because of previously submitted and fully complete applications with prior affirmative city issued concurrency determinations;
- (q) New sewer connection in cases where the property owner has presented the City with documentation from the Snohomish Health District that sufficiently demonstrates a failed on-site septic system and that there is no feasible alternative but to connect to the public sewer system;
- (r) The Snohomish Health District or the State Department of Ecology authorizes temporary use of an on-site sewer system, the Applicant pays sewer connection fees at the time of building permitting, and the Applicant signs and records a covenant agreeing to connect to the City of Granite Falls sewer system and decommission the on-site system within 60 days of receiving a request from the City.

(5) SEPA. Applications exempt from the test for concurrency are not necessarily exempt from SEPA.

(6) Exemptions. The portion of any development used for any of the following purposes is exempt from the requirements of this chapter:

- (a) Public transportation facilities;
- (b) Public parks and recreational facilities; and
- (c) Public libraries.

(D) Concurrency Procedures.

(1) Concurrency Review Procedures. The test for concurrency is currently suspended but when resumed shall be performed in the processing of all nonexempt permit applications through a concurrency review process established by the individual service providers.

- (a) The concurrency review process shall be completed prior to issuance of a building permit. The designated official shall determine the time of the concurrency test dependent on the time of permit.
- (b) The concurrency review process shall include review of phased projects.
- (c) The concurrency review process established by the individual service providers shall be specified in written policy, and shall be available for city distribution.

(2) Test for Concurrency – Roles.

(a) When allowed, the designated official shall provide the overall coordination of the test for concurrency by:

- (i) Notifying the service providers of all applications requiring a test for concurrency;
- (ii) Notifying the service providers of all exempted development applications which use capacity;
- (iii) Notifying the service providers of expired development permits or other actions resulting in a release of capacity reserved through a certificate of capacity.

(b) Service providers shall:

- (i) Be responsible for conducting the test for concurrency for their individual public facilities, for all applications requiring a test for concurrency;
- (ii) Reserve the capacity needed for each application;
- (iii) Account for the capacity for each exempted application which uses capacity;
- (iv) Adjust capacity to reflect the release of reserved capacity as notified by the city;

(v) Annually report the capacity of their public facilities to the city. Said annual report shall include an analysis of comprehensive plan infrastructure priorities in accordance with the six-year capital improvement plan; and

(vi) Have the authority to charge applicable fees to recover the costs of concurrency testing and monitoring their concurrency systems.

(3) Capacity. For sanitary sewer and domestic water supply, only available capacity shall be used in conducting the test for concurrency. For streets, available and planned capacity may be used in conducting the test for concurrency. The adopted level of service standards outlined in the comprehensive plan shall be the basis for determining whether adequate capacity will be available.

(4) Test for Concurrency – Pass. The test for concurrency, when allowed to occur, is passed when the capacity of public facilities and services is equal to or greater than the capacity required to maintain the level of service standards established by the city. When a concurrency determination is allowed, a certificate of capacity will be issued by the city according to the following provisions:

(a) A certificate of capacity will be issued upon payment of any fee, performance of any condition, or other assurances required by the service provider.

(b) A certificate of capacity shall apply only to the specific land use types, densities, intensities, and development project described in the certificate.

(c) A certificate of capacity is not transferable to other land, but may be transferred to new owners of the subject land along with any conditions imposed by the city in the permit or approval documents.

(d) A certificate of capacity shall expire if the accompanying permit expires or is revoked. The expiration date of the certificate of capacity may be extended according to the same terms and conditions as the accompanying permit. If the permit is granted an extension, so shall the certificate of capacity. If the accompanying permit does not include an expiration date, the certificate of capacity shall expire two years from the date of issuance. Expiration dates shall be included in certificates of capacity.

(5) Test for Concurrency – Fail. The test for concurrency is not passed and the proposed project may be denied if the capacity of the public services or facilities is less than the capacity required to maintain the adopted level of service standards after the impacts associated with the requested permit are added to the existing capacity utilization. The following options are available to applicants in the event that partial capacity of public facilities and services is available:

(a) The scope of the project may be reduced to the level equal to that which would absorb the available capacity;

(b) The phasing of the project may be modified to accommodate planned capacity improvements;

(c) The capacity shortfall may be mitigated as part of the project; or

(d) The results of the test for concurrency may be appealed to the hearing officer.

(E) Check for Adequacy. The check for adequacy will be performed on an annual basis concurrent with the annual update of the capital facilities element of the comprehensive plan. The check for adequacy will be conducted by the appropriate service provider.

(1) City. The city shall:

(a) Provide the affected service providers a report on all permit applications occurring within the past year;

(b) Provide population growth figures to the service providers;

(c) Maintain a cumulative record of all checks for adequacy.

(2) Service Providers. Service providers shall provide annual reports on checks for adequacy to the city.

(F) Approval or Denial of Permits.

(1) Approvals. When allowed, permits which would not result in a reduction of an adopted level of service standard for a public facility or service may be approved as long as all other provisions of the code are met.

(2) Denials. Permits which would result in a reduction of an adopted level of service standard for a public facility or service are subject to denial.

(G) Concurrency Test Request without Application. At this time no test for concurrency may be requested without an accompanying permit application.

(H) Variance. Notwithstanding any other provision of this Section 19.12.012, The City Engineer shall have authority to administratively grant a variance from the prohibition on a concurrency determination in this section in cases of special hardships, unique circumstances and practical difficulties not covered by an exemption in this section. Application for such a variance shall be in writing, state the basis for the request, and shall be filed with the City Engineer together with a filing fee as established by resolution of the City Council. No variance shall be granted unless the City Engineer finds that all of the following facts and conditions exist:

(1) That there are exceptional or extraordinary circumstances such as a bona fide public health emergency or conditions applying to the subject property or as to the intended use thereof that do not apply generally to other properties in the same vicinity;

(2) That such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant possessed by the owners of other properties in the same vicinity;

(3) That the authorization of such variance will not be materially detrimental to the public interest, welfare or the environment;

(4) That the granting of such variance will not be inconsistent with the long-range plans of the City utility system;

(5) That the granting of such variance is consistent with the Growth Management Act, Chapter 36.70A RCW;

(6) For purposes of this chapter the term “bona fide public health emergency” shall mean that service is necessary and that all of the following are present:

(a) The impact on public health potentially impacts the general public rather than solely the property owner making application;

(b) The hardship is not the result of the applicant’s own action;

(c) The hardship is not merely financial or pecuniary;

(d) The City’s NPDES permit will not be affected by the extension (if applicable);

(e) The extension is consistent with the goals of the City’s sewer comprehensive plans and all other applicable law, including, but not limited to, the Growth Management Act and the State Environmental Policy Act;

(f) The City has adequate capacity and adequate infrastructure available to provide the required service, or the applicant voluntarily agrees to provide the necessary infrastructure upgrades to allow service consistent with City standards.

(7) Conditions may be imposed upon the granting of a variance to ensure the protection of the public health, welfare and environment. Each variance shall be considered on a case-by-case basis, and shall not be construed as setting precedent for or binding on any subsequent application. The decision of the City Engineer on a variance application shall be in writing, deemed a Type 2 decision and shall be final, subject to appeal to the City Land Use Hearing Examiner pursuant to the appeal process set forth in GFMC 19.04B.140 including but not limited to filing any appeal within the 10-day period after the written decision of the City Engineer.

Notwithstanding the provisions of this chapter, the interim regulations adopted or subsequently adopted shall remain in full force and effect pending their expiration. The provisions of 19.12.015 to 19.12.045 shall only become effective upon the expiration of any and all interim regulations.

**19.12.015 Purpose. (effective after expiration of all interim regulations)**

(A) Intent. The purpose of this section is to ensure that public facilities and services owned, operated, or provided by the city and public facilities and services owned, operated or provided by other governments, special districts and applicable organizations within the city are provided simultaneous to or within six years after development occurs consistent with the capital facilities element of the comprehensive plan and RCW 36.70A.070(3). This chapter shall apply to all applications for development or redevelopment permit approvals that will result in:

- (1) More than 10 new p.m. peak hour vehicle trips; and
- (2) Five or more connections or five SFR equivalent connections to city water and/or sanitary sewer systems.

**19.12.020 Authority. (effective after expiration of all interim regulations)**

The designated official shall be responsible for enforcing the provisions of this chapter.

**19.12.025 Exemptions. (effective after expiration all of interim regulations)**

(A) The test for concurrency shall not be required for exempted developments as specified below:

- (1) Highways of statewide significance (HSS) are exempt from this concurrency section.
- (2) No Impact. Development which creates little or no additional impact on public water, sanitary sewer, surface water management, streets, schools and parks is exempt from the test for concurrency. Such development includes but is not limited to:
  - (a) Uses falling under thresholds described in GFMC 19.07.010 (H);
  - (b) Additions, accessory structures, or interior renovations to or replacement of a residence which do not result in a change in use or increase in the number of dwelling units or residential equivalents;
  - (c) Additions to or replacement of a nonresidential structure which do not result in a change in use, expansion in use, or otherwise increase demand in public facilities as defined above;
  - (d) Temporary uses as described in GFMC 19.04C.060; and
  - (e) Demolitions.
- (3) Permits and Actions. The following are exempt from the test for concurrency:
  - (a) Boundary line adjustments;
  - (b) Temporary use permits;
  - (c) Variances and shoreline variances;
  - (d) Approvals pursuant to site development regulations;
  - (e) Administrative interpretations;
  - (f) Sign permits;
  - (g) Street vacations;
  - (h) Demolition permits;
  - (i) Street use or right-of-way permits;
  - (j) Clearing, grading, and excavation permits;
  - (k) Mechanical, electrical and plumbing permits;
  - (l) Fire code permits;
  - (m) Other permits as determined by the city that will not result in impacts on public services or utilities.



- (4) SEPA. Applications exempt from the test for concurrency are not necessarily exempt from SEPA.
- (5) Exemptions. The portion of any development used for any of the following purposes is exempt from the requirements of this chapter:
  - (a) Public transportation facilities;
  - (b) Public parks and recreational facilities; and
  - (c) Public libraries.

**19.12.030 Concurrency procedures. (effective after expiration of all interim regulations)**

**(A) Concurrency Procedures.**

- (1) Concurrency Review Procedures. The test for concurrency shall be performed in the processing of all nonexempt permit applications through a concurrency review process established by the individual service providers.
  - (a) The concurrency review process shall be completed prior to issuance of a building permit. The designated official shall determine the time of the concurrency test dependent on the time of permit.
  - (b) The concurrency review process shall include review of phased projects.
  - (c) The concurrency review process established by the individual service providers shall be specified in written policy, and shall be available for city distribution.
- (2) Test for Concurrency – Roles.
  - (a) The designated official shall provide the overall coordination of the test for concurrency by:
    - (i) Notifying the service providers of all applications requiring a test for concurrency;
    - (ii) Notifying the service providers of all exempted development applications which use capacity;
    - (iii) Notifying the service providers of expired development permits or other actions resulting in a release of capacity reserved through a certificate of capacity.
  - (b) Service providers shall:
    - (i) Be responsible for conducting the test for concurrency for their individual public facilities, for all applications requiring a test for concurrency;
    - (ii) Reserve the capacity needed for each application;
    - (iii) Account for the capacity for each exempted application which uses capacity;
    - (iv) Adjust capacity to reflect the release of reserved capacity as notified by the city;
    - (v) Annually report the capacity of their public facilities to the city. Said annual report shall include an analysis of comprehensive plan infrastructure priorities in accordance with the six-year capital improvement plan; and
    - (vi) Have the authority to charge applicable fees to recover the costs of concurrency testing and monitoring their concurrency systems.
- (3) Capacity. For sanitary sewer and domestic water supply, only available capacity shall be used in conducting the test for concurrency. For streets, available and planned capacity may be used in conducting the test for concurrency. The adopted level of service standards outlined in the comprehensive plan shall be the basis for determining whether adequate capacity will be available.
- (4) Test for Concurrency – Pass. The test for concurrency is passed when the capacity of public facilities and services is equal to or greater than the capacity required to maintain the level of service standards established by the city. A certificate of capacity will be issued by the city according to the following provisions:
  - (a) A certificate of capacity will be issued upon payment of any fee, performance of any condition, or other assurances required by the service provider.



(b) A certificate of capacity shall apply only to the specific land use types, densities, intensities, and development project described in the certificate.

(c) A certificate of capacity is not transferable to other land but may be transferred to new owners of the subject land along with any conditions imposed by the city in the permit or approval documents.

(d) A certificate of capacity shall expire if the accompanying permit expires or is revoked. The expiration date of the certificate of capacity may be extended according to the same terms and conditions as the accompanying permit. If the permit is granted an extension, so shall the certificate of capacity. If the accompanying permit does not include an expiration date, the certificate of capacity shall expire two years from the date of issuance. Expiration dates shall be included in certificates of capacity.

(5) Test for Concurrency – Fail. The test for concurrency is not passed and the proposed project may be denied if the capacity of the public services or facilities is less than the capacity required to maintain the adopted level of service standards after the impacts associated with the requested permit are added to the existing capacity utilization. The following options are available to applicants in the event that partial capacity of public facilities and services is available:

(a) The scope of the project may be reduced to the level equal to that which would absorb the available capacity;

(b) The phasing of the project may be modified to accommodate planned capacity improvements;

(c) The capacity shortfall may be mitigated as part of the project; or

(d) The results of the test for concurrency may be appealed to the hearing officer.

#### **19.12.035 Check for adequacy. (effective after expiration of all interim regulations)**

(A) Check for Adequacy. The check for adequacy will be performed on an annual basis concurrent with the annual update of the capital facilities element of the comprehensive plan. The check for adequacy will be conducted by the appropriate service provider.

(1) City. The city shall:

(a) Provide the affected service providers a report on all permit applications occurring within the past year;

(b) Provide population growth figures to the service providers;

(c) Maintain a cumulative record of all checks for adequacy.

(2) Service Providers. Service providers shall provide annual reports on checks for adequacy to the city.

#### **19.12.040 Approval or denial of permits. (effective after expiration of all interim regulations)**

(A) Approvals. Permits which would not result in a reduction of an adopted level of service standard for a public facility or service may be approved as long as all other provisions of the code are met.

(B) Denials. Permits which would result in a reduction of an adopted level of service standard for a public facility or service are subject to denial.

#### **19.12.045 Concurrency Test Request without Application. (effective after expiration of all interim regulations)**

(A) Test for concurrency may be requested without an accompanying permit application. Any available capacity found at the time of the test cannot be reserved and no certificate of capacity will be issued.

**Section 2. Copy to Commerce Department.** Pursuant to RCW 36.70A.106(3), the City Clerk is directed to send a copy of this ordinance to the State Department of Commerce for its files within ten (10) days after adoption of this ordinance.

**Section 3. Severability.** If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

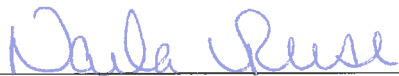
**Section 4. Effective Date.** This Ordinance shall take effect and be in full force five (5) days after passage and publication of an approved summary consisting of the title.

**ADOPTED** by the City Council and **APPROVED** by the Mayor this 16<sup>th</sup> day of February, 2022.


CITY OF GRANITE FALLS

  
\_\_\_\_\_  
Matthew Hartman, Mayor

ATTEST:

  
\_\_\_\_\_  
Darla Reese, MMC, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Thom Graafstra, City Attorney  
Emily Guildner, City Attorney

Passed by City Council: February 16, 2022  
Date of Publication: February 19, 2022  
Effective Date: February 24, 2022