

Title 16

LAND DIVISIONS AND ADJUSTMENTS¹

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¹ Prior legislation: Ords. 1220, 1339, 1378, 1503, 1628, 1770, 1799, 1809 and 1839.

Chapter 16.01

GENERAL PROVISIONS

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16.01.010 Title.

A. Title. This title shall be called “Land Divisions and Adjustments.”

B. Chapter. This chapter shall be called “General Provisions.” (Ord. 1856 § 2 (Exh. B), 2018).

16.01.020 Application.

A. All land divisions, boundary line adjustments, and lot combinations shall be subject to the requirements of this title and the provisions of chapter 58.17 RCW.

B. Land divisions shall be classified as either “exempt” or “nonexempt.” A nonexempt division is a land division or adjustment subject to platting review. Nonexempt divisions include subdivisions and short subdivisions. Only those divisions and adjustments specifically classified by this title as exempt shall be considered exempt.

C. An exemption from platting review shall not be construed as an exemption from other applicable laws, regulations, and Burlington Municipal Code requirements. As specified in this title, some exempt land divisions and adjustments are subject to alternative review and approval requirements. (Ord. 1856 § 2 (Exh. B), 2018).

16.01.030 Purpose.

A. To ensure land divisions and adjustments comply with the requirements of chapter 58.17 RCW.

B. To implement the Burlington comprehensive plan and carry out the requirements of the chapter 36.70A RCW, the Growth Management Act.

C. To ensure the public interest will be served by subdivisions, short subdivisions, and dedications, and to ensure that appropriate provisions have been made for the public health, safety and general welfare, and for open spaces, drainage ways, streets, alleys, other public ways, water supplies, sanitary wastes, fire protection facilities, parks, playgrounds, and sites for schools and school grounds. Subdivisions and short subdivisions meeting all of the requirements of this title shall be construed to serve the public interest and be consistent with the above purposes.

D. Provide a means of conveying information to property owners or prospective buyers regarding restrictions and limitations on the use of land within a subdivision or short subdivision. (Ord. 1856 § 2 (Exh. B), 2018).

16.01.040 Authority.

This title is adopted pursuant to chapters 36.70, 36.70A, 36.70B and 58.17 RCW as well as other applicable laws and regulations. (Ord. 1856 § 2 (Exh. B), 2018).

16.01.050 Exemptions from platting review.

The following actions are classified as exempt and shall not require platting review:

- A. Cemeteries and burial plots when used for that purpose;
- B. Divisions made by testamentary provisions or the laws of descent, subject to compliance with chapter 16.70 BMC;
- C. Binding site plans, when a binding site plan has been approved by the city and recorded with the auditor subject to compliance with chapter 16.30 BMC;
- D. Divisions of land made for the sole purpose of providing sites for public and private utility facilities; provided, that any remaining lots are consistent with applicable zoning regulations, a record of survey depicting the division is recorded, and a covenant or deed restriction is recorded limiting the use of the utility site to utility purposes;
- E. Boundary line adjustments which do not create any additional lot, tract, parcel, site, or division, or create a lot, tract, parcel, site, or division which does not comply with the minimum standards for area or dimension prescribed by the zoning code, subject to compliance with chapter 16.60 BMC;
- F. Divisions of land due to condemnation, or sale under the threat of condemnation, by any agency or division of government, provided a record of survey depicting the division is recorded;
- G. Existing parcels created by the establishment of public road rights-of-way prior to the adoption of applicable state platting laws or city platting regulations;
- H. Existing parcels, created by the city or another municipal corporation prior to the effective date of this title, for port purposes, moorage, boat launches, parks, open space, critical area protection, conservation, or other public purposes;
- I. Assessor's combinations and segregations for purposes of taxation only. Such parcels shall not be recognized as separate legal lots for purposes of sale, lease, transfer, building, or permitting. (Ord. 1856 § 2 (Exh. B), 2018).

16.01.060 Definitions.

For the purposes of interpreting this title the following definitions shall be used unless the context clearly indicates otherwise. If a word or term is not defined in this section, but is defined in BMC Title 17, the definition in BMC Title 17 shall be used. Words used in the singular include the plural, and words used in the plural include the singular. The word "shall" is always mandatory and the words "may" and "should" denote the use of discretion in making a decision.

"A"

"Auditor" or "auditor's office" means the Skagit County auditor.

"B"

"Binding site plan" means a detailed recorded plan that divides land into individual lots for the purpose of facilitating commercial, industrial, or mixed-use development, or for the purpose of creating condominiums or a manufactured home park. Binding site plans are subject to the provisions of chapter 16.30 BMC.

"Binding site plan alteration" means a modification or change to a recorded binding site plan. This term also includes the vacation, or elimination, of a recorded binding site plan, a portion of a binding site plan, or any easement, dedication, or feature created by, or shown on the face of a binding site plan.

"Binding site plan amendment" means a minor modification or amendment to an approved preliminary binding site plan. Binding site plan amendments are submitted after the preliminary approval, but prior to the recording.

"Block" means an area of land or a group of lots surrounded on all sides by intersecting streets.

"Block perimeter" means the distance to travel once completely around a block, ending at the starting point.

"Boundary line" or "property line" means a lot line as defined in BMC Title 17.

“Boundary line adjustment” or “lot line adjustment” means a division made for the purpose of adjusting boundary lines between platted or unplatted lots or both, which does not create an additional lot, tract, parcel, site, or division, or create a lot, tract, parcel, site, or division that does not comply with the minimum standards for area or dimension prescribed by the zoning code.

“C”

“Certificate of occupancy” means a written document issued by the governing authority in accordance with the provisions of the building permit. The certificate of occupancy indicates that, in the opinion of the building official, the project has been completed in accordance with the building and zoning codes. This document gives the owner permission from the authorities to occupy and use the premises for the intended purpose.

“City” means the city of Burlington.

“City engineer” means the Burlington director of public works or designee.

“Code” means the Burlington Municipal Code.

“Critical area,” for the limited purposes of interpreting this title, shall mean a wetland or fish and wildlife habitat conservation area as defined in chapter 365-190 WAC.

“Critical area buffer,” for the limited purposes of interpreting this title, shall mean the protective buffer or area required by BMC Title 14 for wetlands and fish and wildlife habitat conservation areas.

“D”

“Dedication” means the deliberate appropriation of land by an owner for any general and public uses reserving to himself no other rights than such as are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted. The intention to dedicate shall be evidenced by the owner by the presentment for filing of a final plat or short plat showing the dedication thereon; and the acceptance by the public shall be evidenced by the approval of such plat for filing by the appropriate governmental unit.

“Director” means the city administrator or designee.

“F”

“Final plat” means the final drawing of a subdivision or short subdivision prepared for filing for record with the auditor and containing all elements and requirements set forth in this title and chapter 58.17 RCW.

“I”

“Illegal lot” means a lot created in violation of the platting or zoning regulations in effect at the time of its creation or subsequent adjustment.

“Innocent purchaser” means the owner of a lot created in violation of the requirements of this title or chapter 58.17 RCW that purchased the property for value and in good faith, and did not have knowledge of the fact that the lot was divided from a larger parcel, or adjusted, in violation of this title or chapter 58.17 RCW.

“L”

“Legal lot” means a lot created in compliance with all of the platting and zoning regulations in effect at the time of its creation or subsequent adjustment. This term shall also include lots which have been certified by the city as legal lots in accordance with provisions of chapter 16.70 BMC.

“Long plat” means the plat of a subdivision.

“Lot” means a single unit of land having fixed boundaries, no matter how legally described. This term shall also include the terms “parcel,” “site,” and “tract.”

“N”

“Natural hazard,” for the limited purpose of interpreting this title, shall mean a critical aquifer recharge area, geologically hazardous area, or frequently flooded area as defined in chapter 365-190 WAC.

“P”

“Plat” means a map or representation of a subdivision or short subdivision, showing thereon the division of a tract or parcel of land into lots, blocks, streets and alleys or other divisions and dedications.

“Plat alteration” means a modification or change to a recorded plat. This term also includes the vacation, or elimination, of a recorded plat, a portion of a plat, or any easement, dedication, or feature created by or shown on the face of a plat.

“Plat amendment” means a minor modification or amendment to an approved preliminary plat. Plat amendments are submitted after the approval of a preliminary plat, but prior to the recording of a final plat.

“Platting review” means the review process set forth in chapters 16.10 and 16.20 BMC for subdivisions and short subdivisions. Platting review shall consist of both a preliminary and final review process.

“Preliminary plat” means a complete and accurate drawing of a proposed subdivision or short subdivision showing the general layout of the streets, alleys, lots, blocks, and other elements of the proposed subdivision or short subdivision required by this title.

“Preliminary plat approval” means the review and approval process specified in chapter 16.10 BMC for subdivisions and short subdivisions.

“R”

“Record” means to file for recording with the Skagit County auditor.

“S”

“Short plat” means the plat of a short subdivision.

“Short subdivision” means the division, or redivision, of land into nine or fewer lots, tracts, parcels, sites, or divisions for the purpose of sale, lease, or transfer of ownership. This term does not include the redivision of a lot within the boundaries of a short plat, within five years of the recording date, if the redivision would have the effect of creating more than nine parcels within the original short plat boundaries.

“Subdivision” means the division, or redivision, of land into 10 or more lots, tracts, parcels, sites or divisions for the purpose of sale, lease, or transfer of ownership. This term shall also include the redivision of a lot within the boundaries of a short plat, if the redivision occurs within five years of the date the short plat was recorded, and the redivision would have the effect of creating more than nine parcels within the original short plat boundaries.

“Surveyor” means a land surveyor licensed in the state of Washington.

“T”

“Testamentary division” means a division of land made by testamentary provisions, or the laws of descent. (Ord. 1856 § 2 (Exh. B), 2018).

“Through lot” means a lot bounded two streets that are parallel or roughly parallel and/or do not intersect at any of the lot corners.

“Tract” means a type of lot designated on a plat or binding site plan reserved for a specific purpose such as utilities, streets, storm-water management, parks, open space, or conservation.

16.01.070 Effect of noncompliance.

No building permit or other development permit shall be issued for any lot created, divided, or adjusted in violation of Washington State law, or this title, unless the city finds that the owner of the lot is an innocent purchaser and that the public interest will not be adversely affected in accordance with the provisions of chapter 16.70 BMC. (Ord. 1856 § 2 (Exh. B), 2018).

16.01.080 Liability.

It is the specific intent of this title to place the obligation of compliance upon the property owner or party subject to the provisions of the chapters contained within this title. Nothing contained in this title is intended to be or shall be construed to create or form the basis for liability on the part of the city of Burlington officers, employees or agents for any injury or damage resulting from the failure of the property owner or party subject to the provisions of the chapters contained within this title, to comply with the provisions of this title, or by reason or in consequence of any act or omission in connection with the implementation or enforcement of this code by the city of Burlington officers, employees or agents. This title is not intended to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by its terms. (Ord. 1856 § 2 (Exh. B), 2018).

16.01.090 Violations and penalties.

All acts or omissions in violation of any provision contained within this title, or acts or omissions that cause or contribute to a violation of any provision contained within this title, are hereby determined to be detrimental to the public health, safety and general welfare and shall constitute a public nuisance. Further, as specified in chapter 1.24 BMC, such acts or omissions shall be subject to fines and abatement under chapter 8.12 BMC, criminal penalties as set forth in chapter 1.24 BMC, penalties for civil infractions as set forth in chapter 1.34 BMC, or civil violations as set forth in chapter 1.44 BMC. (Ord. 1856 § 2 (Exh. B), 2018).

16.01.100 Appeal.

Appeals of decisions made pursuant to this title shall be filed and processed in accordance with the applicable procedures identified in BMC Title 14A. (Ord. 1856 § 2 (Exh. B), 2018).

16.01.110 Severability.

If any portion of this title is found to be invalid or unenforceable for any reason, such finding shall not affect the validity or enforceability of any other section of this title. (Ord. 1856 § 2 (Exh. B), 2018).

Chapter 16.10

PRELIMINARY PLAT REVIEW

Sections:

- 16.10.010 Title.
- 16.10.020 Application.
- 16.10.030 Purpose.
- 16.10.040 Authority.
- 16.10.050 Review process.
- 16.10.060 Application requirements.
- 16.10.070 Distribution of applications.
- 16.10.080 Approval process.
- 16.10.090 Critical areas and natural hazards.
- 16.10.100 Dedications.
- 16.10.110 Effect of preliminary plat approval.
- 16.10.120 Amendments.

16.10.010 Title.

This chapter shall be called “Preliminary Plat Review.” (Ord. 1856 § 2 (Exh. B), 2018).

16.10.020 Application.

This chapter shall apply to all applications for preliminary plat approval and shall apply to both subdivisions and short subdivisions. (Ord. 1856 § 2 (Exh. B), 2018).

16.10.030 Purpose.

A. Provide a coordinated interdepartmental process for reviewing proposed land divisions and ensuring that subdivisions and short subdivisions comply with all applicable Burlington Municipal Code requirements and Washington State platting laws;

B. Identify the services, facilities, dedications, and improvements necessary to serve proposed subdivisions or short subdivisions;

C. Establish appropriate conditions, restrictions, and requirements for the use and development of the land within the boundaries of a subdivision or short subdivision. (Ord. 1856 § 2 (Exh. B), 2018).

16.10.040 Authority.

This chapter is adopted pursuant to the provisions of chapters 36.70, 36.70A, 36.70B, and 58.17 RCW and other applicable laws and regulations. (Ord. 1856 § 2 (Exh. B), 2018).

16.10.050 Review process.

A. Preliminary short subdivision applications shall be processed as Type II decisions in accordance with the provisions of BMC Title 14A.

B. Preliminary subdivision applications shall be processed as Type III decisions in accordance with the provisions of BMC Title 14A.

C. Unless the applicant requests otherwise, applications for preliminary subdivision or short subdivision approval shall be combined and processed together with any other applications associated with the proposed land division, such as zoning amendments, variances, or critical area approvals. In accordance with chapter 14A.05 BMC, combined applications shall be processed using the procedures applicable to the permit with the highest classification.

D. A preliminary plat shall be approved, disapproved or returned to the applicant for modification or correction within 90 days from date of filing unless the applicant consents to an extension of the time period. If an environmental impact statement is required as provided in RCW 43.21C.030, the 90-day period shall not include the

time required for environmental review. This period of time shall be extended by any period after the city has requested information and the applicant has not provided the same. For the purpose of interpreting this provision, “date of filing” shall mean the date the city determines the application is complete in accordance with BMC Title 14A. (Ord. 1856 § 2 (Exh. B), 2018).

16.10.060 Application requirements.

Applications for preliminary subdivision or short subdivision approval shall be made on forms provided by the director and shall include all of the information required by the form in addition to all of the items listed below. Only applications including all of the information required by this section shall be deemed complete for purposes of complying with BMC Title 14A. A complete application shall include:

- A. Any applicable fees in accordance with the fee schedule established by the city council;
- B. Additional copies of all required information. The director shall specify the required number of copies in order to ensure that each department, or official, charged with reviewing the application can be provided with a copy;
- C. A soils report;
- D. A preliminary drainage report showing how storm water will be managed and identifying areas suitable for storm water infiltration, treatment, and low impact development features;
- E. A SEPA checklist or other SEPA documentation and reports if required;
- F. Critical areas information or reports, if required, in accordance with the requirements of chapter 14.15 BMC;
- G. Written verification from the Skagit Public Utility District indicating they are able and willing to provide water service to the proposed subdivision or short subdivision;
- H. A preliminary plat prepared by a land surveyor licensed in the state of Washington. The preliminary plat shall be consistent with the applicable standards and requirements identified in chapter 16.40 BMC. (Ord. 1856 § 2 (Exh. B), 2018).

16.10.070 Distribution of applications.

Applications which have been deemed complete in accordance with the requirements of BMC Title 14A and BMC 16.10.060 shall be distributed and reviewed as follows:

- A. The building official shall review the application for compliance with requirements of chapter 15.04 BMC and the flood development regulations identified in chapter 14.15 BMC;
- B. The fire marshal shall review the application for compliance with the requirements of chapter 15.08 BMC;
- C. The city engineer shall review the application for compliance with BMC Titles 12 and 13, and chapter 14.05 BMC.
- D. Each official identified above shall review the preliminary plat application and, within 30 days, provide the director with a report; each report shall:
 - 1. Document whether or not the application complies with the municipal code requirements, laws, and other regulations the official is charged with administering; and
 - 2. Recommended conditions of approval. If the official concludes that conditions are necessary in order to ensure the proposal complies with applicable regulatory requirements, recommended conditions of approval shall be included in the report; and
 - 3. Specify the extent and type of improvements, infrastructure, utilities, roads, and dedications necessary to serve the subdivision or short subdivision; and

4. Identify any permits or other regulatory approvals, such as grading permits, flood development permits, and right-of-way permits that will be required prior to beginning the construction phase. (Ord. 1856 § 2 (Exh. B), 2018).

16.10.080 Approval process.

A. Short Subdivisions. Following the review process specified in BMC 16.10.070, the director shall prepare a report documenting, through written findings of fact, whether or not the proposed short subdivision complies with applicable municipal code requirements. If the director finds that the application complies with all applicable municipal code requirements, it shall be approved. If director finds that the application does not comply, or cannot comply, through the application of reasonable conditions of approval, it shall either be denied or returned to the applicant for corrections.

B. Subdivisions. Following the review process specified in BMC 16.10.070, the director shall schedule a public hearing before the hearing examiner. The director shall forward a report outlining the proposed subdivision's compliance with applicable municipal code requirements to the hearing examiner. Following the receipt of the director's report and recommendation, and a public hearing, the hearing examiner shall approve, approve with conditions, or deny the proposed subdivision as follows:

1. If the proposed subdivision complies with all applicable municipal code requirements it shall be approved; or
2. If, in the hearing examiner's opinion, the proposed subdivision can be made to comply with all applicable municipal code requirements through the application of reasonable conditions of approval, it shall be approved; or
3. If the proposed subdivision does not comply with all applicable municipal code requirements, or if in the hearing examiner's opinion, it cannot be made to comply through the application of reasonable conditions of approval, it shall be denied.
4. The hearing examiner's decision shall be in writing and shall be supported by written findings of fact.

C. Conditions of Approval. Preliminary subdivision or short subdivision applications may be approved with conditions if the conditions are necessary to ensure compliance with applicable municipal code requirements, chapter 58.17 RCW, or to identify specific improvements or actions which must be completed prior to final plat approval. (Ord. 1856 § 2 (Exh. B), 2018).

16.10.090 Critical areas and natural hazards.

The following standards shall apply to all preliminary plat applications when critical areas, critical area buffers, or natural hazards are present within, or adjacent to, the proposed plat:

A. No lot shall be created through a subdivision or short subdivision which lacks an adequate building site outside of critical areas and critical area buffers, unless restrictive notes are included on the face of the plat permanently prohibiting development of the lot;

B. No lot shall be created through a subdivision or short subdivision which lacks an adequate building site outside the floodway or special flood risk area, unless restrictive notes are included on the face of the plat permanently prohibiting development of the lot, or restricting the use of the lot to flood control structures and improvements;

C. No lot shall be created through a subdivision or short subdivision which lacks an adequate building site unencumbered by natural hazards or natural hazard buffers unless the hazards can be mitigated to an acceptable level through the construction of protective improvements or other means consistent with provisions of chapter 14.15 BMC;

D. Under no circumstances shall a lot be created through a subdivision or short subdivision that necessitates subsequent critical area variances or reasonable use determinations. Restrictive notes shall be included on the face of all plats containing critical areas, critical area buffers, or natural hazards identifying the applicable development regulations and stating that no critical area variances or reasonable use determinations will be granted within the plat boundaries;

E. Critical areas and critical area buffers shall be identified on the face of the plat and placed within protective tracts or easements as required by chapter 14.15 BMC;

F. Natural hazards and any associated setbacks, restrictions, or buffers required by chapter 14.15 BMC shall be shown on the face of the plat;

G. Land within a floodway or special flood risk zone shall be placed within a separate tract or easement if required by chapter 14.15 BMC;

H. Plats shall be subject to any other applicable requirements identified in chapter 14.15 BMC shall be addressed. (Ord. 1856 § 2 (Exh. B), 2018).

16.10.100 Dedications.

Dedications shall be shown on the preliminary plat in accordance with the requirements identified in chapter 16.40 BMC. Dedications proposed by the applicant that are not required by Burlington Municipal Code shall also be shown. (Ord. 1856 § 2 (Exh. B), 2018).

16.10.110 Effect of preliminary plat approval.

A. Following preliminary approval, all improvements and infrastructure required as conditions of the preliminary approval shall be constructed or installed. No application for final plat approval shall be accepted until all of the required improvements and infrastructure have been completed.

B. All work done during the construction phase shall be consistent with the approved preliminary plat and any conditions of approval.

C. All required permits and approvals must be obtained prior to beginning the construction phase, and all subsequent work shall be in strict accordance with the approved permits.

D. A final plat meeting all of the requirements of this chapter shall be submitted to the city for approval within the following time periods:

1. Subdivisions. A final plat shall be submitted to the city for approval and recorded within the period of time specified in chapter 58.17 RCW.
2. Short Subdivisions. Preliminary short plat approvals shall be valid for a period of two years. A final short plat shall be submitted to the city for approval and recorded prior to the expiration of the preliminary approval.

E. If a final plat meeting the requirements of this title is not submitted to the city and recorded within the allowable period the preliminary approval shall be null and void and any subsequent application shall be subject to the regulatory requirements in effect at the time of reapplication. (Ord. 1856 § 2 (Exh. B), 2018).

16.10.120 Amendments.

Approved preliminary plats may be modified or amended subject to the following requirements:

A. Applications to amend an approved preliminary plat must be submitted before a final plat is recorded. Once a final plat has been recorded all subsequent modifications shall be subject to the plat alteration requirements identified in chapter 16.50 BMC.

B. Applications for plat amendments shall be processed as Type I decisions in accordance with the procedures identified in BMC Title 14A.

C. Applications for plat amendments shall be subject to the following approval criteria. No plat amendment shall be approved unless it is consistent with all of the following:

1. Except as explicitly authorized below, the conditions of preliminary approval shall not be eliminated or modified except to correct simple nonsubstantive spelling, grammatical, or mathematical errors;

2. The plat boundaries shall not be expanded and no additional parcels or land area shall be included except to address survey errors;
3. The number of lots in a short plat shall not be increased if the effect of the amendment would result in the creation of 10 or more lots;
4. The overall density permitted within the plat boundaries shall not be increased by more than 10 percent;
5. The amount of open space provided within the plat boundaries shall not be decreased by more than 10 percent;
6. The proposal shall not increase the amount of impervious surface coverage within the plat boundaries by more than 10 percent;
7. The amendment shall be consistent with this title and all other applicable Burlington Municipal Code requirements;
8. The amendments shall be consistent with any studies, reports, or environmental documents prepared in support of the original application.

D. Proposed changes which are not consistent with the criteria identified above shall require a new application for preliminary plat approval.

E. The approval of a plat amendment shall not affect or extend the timelines and expiration dates identified in BMC 16.10.110. Timelines and expiration dates shall be calculated from the date of preliminary plat approval even if a plat amendment is subsequently approved.

F. If multiple plat amendment applications are submitted, the cumulative effect of such amendments shall not violate the requirements of this section. (Ord. 1856 § 2 (Exh. B), 2018).

Chapter 16.20

FINAL PLAT REVIEW

Sections:

16.20.010	Title.
16.20.020	Application.
16.20.030	Purpose.
16.20.040	Authority.
16.20.050	Approval required.
16.20.060	Review process.
16.20.070	Application requirements.
16.20.080	Distribution of applications.
16.20.090	Approval process.
16.20.100	Effect of final plat approval.

16.20.010 Title.

This chapter shall be called “Final Plat Review.” (Ord. 1856 § 2 (Exh. B), 2018).

16.20.020 Application.

This chapter shall apply to all applications for final plat approval. (Ord. 1856 § 2 (Exh. B), 2018).

16.20.030 Purpose.

The purpose of this chapter is to establish the procedures and requirements for reviewing applications for final plat approval. (Ord. 1856 § 2 (Exh. B), 2018).

16.20.040 Authority.

This chapter is adopted pursuant to the provisions of chapters 36.70, 36.70A, 36.70B, and 58.17 RCW and other applicable laws and regulations. (Ord. 1856 § 2 (Exh. B), 2018).

16.20.050 Approval required.

A. No plat shall be recorded prior to obtaining both preliminary and final plat approval.

B. Applications for final plat approval shall not be accepted without an approved preliminary plat.

C. No application for final plat approval shall be accepted until the construction phase is completed. (Ord. 1856 § 2 (Exh. B), 2018).

16.20.060 Review process.

A. Applications for final short plat approval shall be processed as Type I decisions in accordance with the procedures identified in BMC Title 14A.

B. Applications for final subdivision approval shall be processed as Type I decisions in accordance with the procedures identified in BMC Title 14A, except that city council approval shall be required.

C. Applications for final plat approval shall be submitted within the time periods prescribed by BMC 16.10.110. (Ord. 1856 § 2 (Exh. B), 2018).

16.20.070 Application requirements.

Applications for final plat approval shall be made on forms provided by the director and shall include all of the information required by the form in addition to all of the items listed below. Only applications including all of the information required by this section shall be deemed complete for purposes of complying with BMC Title 14A. A complete application shall include:

A. Any applicable fees in accordance with the fee schedule established by the city council;

- B. Additional copies of all required information. The director shall specify the required number of copies in order to ensure that each department, or official, charged with reviewing the application can be provided with a copy;
- C. A copy of the approved preliminary plat and the decision granting preliminary approval;
- D. A statement from the city engineer indicating the construction phase is complete and all required utilities, infrastructure, streets, roads, sidewalks, and other improvements have been installed in accordance with the approved preliminary plat and any other applicable city requirements;
- E. A statement from the Skagit Public Utility District indicating water service has been extended to serve each lot in the plat, unless the lot is designated on the face of the plat for nonbuilding purposes;
- F. A title report provided by a title insurance company licensed in the state of Washington, dated not more than 30 days prior to the application date, confirming that the title of the lands as described and shown on the face of the plat is in the name of the owners signing the certificate;
- G. A full set of survey notes consistent with the requirements of chapter 16.40 BMC;
- H. A final plat prepared by a land surveyor licensed in the state of Washington. The final plat shall be consistent with the applicable standards and requirements identified in chapter 16.40 BMC. (Ord. 1856 § 2 (Exh. B), 2018).

16.20.080 Distribution of applications.

Applications which have been deemed complete in accordance with the requirements of BMC Title 14A and BMC 16.20.070 shall be distributed and reviewed as follows:

- A. The building official shall review the application to ensure that any conditions of preliminary plat approval relating to chapter 15.04 BMC and the flood development regulations identified in chapter 14.15 BMC have been met.
- B. The fire marshal shall review the application to ensure that any conditions of preliminary plat approval related to chapter 15.08 BMC have been met.
- C. The city engineer shall review the application with respect to accuracy, engineering standards, the survey and design requirements of chapter 16.40 BMC, and to ensure that any conditions of preliminary plat approval related to BMC Titles 12 and 13, and chapter 14.05 BMC have been met.
- D. Each official identified above shall review the final plat application and provide the director with a report addressing all of the following:
 - 1. Whether or not the application complies with the municipal code requirements, laws, and regulations the official is charged with administering; and
 - 2. Whether or not the conditions specified in the preliminary approval have been satisfied; and
 - 3. Verifying that all improvements, infrastructure, utilities, roads, and dedications required by the preliminary approval have been provided, constructed, or installed; and
 - 4. Verifying that all required permits or other regulatory approvals such as grading permits, flood development permits, and right-of-way permits have been obtained. (Ord. 1856 § 2 (Exh. B), 2018).

16.20.090 Approval process.

- A. Short Subdivisions. Following the review process specified in BMC 16.20.080, the director shall approve the final plat application, return it to the applicant for corrections, or deny it.
- B. Long Subdivisions. Following the review process specified in BMC 16.20.080, the director shall forward the final subdivision plat to the city council. The city council shall, by ordinance, either approve the final plat application or deny it. If the city council approves the final plat, it shall inscribe and execute written approval on the face of the

plat and the original plat shall be transmitted to the auditor for recording. Copies of approved final plat shall also be transmitted to the director and city engineer.

C. Approval Criteria. Applications for final plat approval shall be approved, denied, or returned to applicant for corrections based on the following criteria. Applications for final plat approval which meet all of the following criteria shall be approved:

1. The final plat is consistent with the approved preliminary plat; and
2. All of the conditions of approval associated with the preliminary plat have been satisfied; and
3. All of the infrastructure and improvements required as a condition of preliminary plat approval have been constructed or installed; and
4. The city engineer has certified that the final plat is technically correct and accurate, complies with all applicable survey and mapping standards, and all lot corner markers and permanent control monuments have been installed; and
5. The title insurance report submitted with the final plat application confirms that title of the land and the proposed short subdivision is vested in the name of the owners whose signatures appear on the face of the plat certificate; and
6. All other applicable requirements of this chapter have been addressed.

D. Resubmission. Any final plat which is disapproved may, at the applicant's option, be resubmitted for approval consistent with the following:

1. The deficiencies of the final plat application which caused it to be rejected or returned shall be addressed;
2. The final plat shall be resubmitted prior to the expiration of the preliminary plat in accordance with the applicable timelines identified in BMC 16.10.110;
3. Final plats being resubmitted for approval shall be treated as new final plat applications, shall be subject to the same review fees as new applications, and must be consistent with all of the requirements identified in this chapter;
4. If the final plat application was denied with prejudice against resubmission, a new application for preliminary plat approval shall be submitted, in which case the application shall be considered a new and separate application and shall be subject to all of the applicable regulatory requirements in effect at the time of submittal;
5. Final plat applications may not be resubmitted after the expiration of the preliminary approval. (Ord. 1856 § 2 (Exh. B), 2018).

16.20.100 Effect of final plat approval.

A. Once a final plat has been approved and recorded, development within the plat shall be governed by the terms of the approved plat, and the statutes, ordinances, and regulations in effect at the time of its approval for a period of five years from the date of recording unless the city council finds that a change in conditions creates a serious threat to the public health or safety.

B. Lots within a final plat that has been approved and recorded shall be considered legal lots.

C. Recorded plats may only be altered, modified, or vacated in accordance with chapter 16.50 BMC. (Ord. 1856 § 2 (Exh. B), 2018).

Chapter 16.30

BINDING SITE PLANS

Sections:

16.30.010	Title.
16.30.020	Application.
16.30.030	Purpose.
16.30.040	Authority.
16.30.050	Approval required.
16.30.060	Review process.
16.30.070	Preliminary application requirements.
16.30.080	Distribution of preliminary applications.
16.30.090	Approval criteria for preliminary applications.
16.30.100	Critical areas and natural hazards.
16.30.105	Effect of preliminary binding site plan approval.
16.30.110	Final application requirements.
16.30.120	Distribution of final applications.
16.30.130	Final binding site plan approval process.
16.30.140	Effect of final approval.

16.30.010 Title.

This chapter shall be called “Binding Site Plans.” (Ord. 1856 § 2 (Exh. B), 2018).

16.30.020 Application.

Land may be divided using the provisions of this chapter as an alternative to the platting review process for subdivisions and short subdivisions. Only the following land divisions shall be eligible for approval using the binding site plan approval process:

A. Commercial, Industrial, and Mixed-Use Developments. Land with a zoning classification allowing commercial, industrial or mixed-use development may be divided into two or more lots using the binding site plan process;

B. Manufactured Home Parks. Land may be divided using the binding site plan process for the purpose of lease when no residential structures other than manufactured homes or travel trailers are permitted to be placed upon the land, provided the site plan complies with all applicable manufactured home park regulations and the zoning code requirements;

C. Condominiums. Land may be divided using the binding site plan process for the purpose of creating condominiums, or sites for condominiums, in accordance with the provisions of chapters 65.32 and 65.34 RCW or other applicable state laws and regulations. (Ord. 1856 § 2 (Exh. B), 2018).

16.30.030 Purpose.

The purpose of this chapter is to provide an alternative method of land division to enable the establishment of condominiums or manufactured home parks, or to create lots for lease or sale in commercial or industrial zones. This method may be employed as an alternative to the platting review process required for subdivisions and short subdivisions, provided the proposed land division is consistent with one of the applicable development types listed in BMC 16.30.020. (Ord. 1856 § 2 (Exh. B), 2018).

16.30.040 Authority.

This chapter is adopted pursuant to chapters 36.70, 36.70A, 36.708, 58.17 RCW and other applicable laws and regulations. (Ord. 1856 § 2 (Exh. B), 2018).

16.30.050 Approval required.

A. All binding site plans shall require city approval and shall be subject to the requirements of this chapter.

B. No binding site plan shall be recorded prior to obtaining both preliminary and final binding site plan approval.

C. Applications for final binding site plan approval shall not be accepted without an approved preliminary binding site plan.

D. No application for final binding site plan approval shall be accepted until the installation and construction of all required improvements is completed. (Ord. 1856 § 2 (Exh. B), 2018).

16.30.060 Review process.

Binding site plans shall be subject to both a preliminary and final review process as follows:

A. Applications for preliminary binding site plan approval shall be processed as Type II decisions in accordance with BMC Title 14A.

B. Applications for final binding site plan approval shall be processed as Type I decisions in accordance with BMC Title 14A.

C. Unless the applicant requests otherwise, applications for preliminary binding site plan approval shall be combined and processed together with any other applications associated with the proposed land division, such as zoning amendments, variances, or critical area approvals. In accordance with chapter 14A.05 BMC, combined applications shall be processed using the procedures applicable to the permit with the highest classification. (Ord. 1856 § 2 (Exh. B), 2018).

16.30.070 Preliminary application requirements.

Applications for preliminary binding site plan approval shall be made on forms provided by the director and shall include all of the information required by the form in addition to all of the items listed below. Only applications including all of the information required by this section shall be deemed complete for purposes of complying with BMC Title 14A. A complete application shall include:

A. Any applicable fees in accordance with the fee schedule established by the city council;

B. Additional copies of all required information. The director shall specify the required number of copies in order to ensure that each department, or official, charged with reviewing the application can be provided with a copy;

C. Soils report;

D. Preliminary drainage report showing how storm water will be managed and identifying areas suitable for storm water infiltration, treatment, and low impact development features;

E. SEPA checklist or other SEPA documentation and reports if required;

F. Critical areas information or reports in accordance with the requirements of chapter 14.15 BMC;

G. Written verification from the Skagit Public Utility District indicating they are able and willing to provide water service to the proposed binding site plan;

H. A preliminary binding site plan prepared by a land surveyor licensed in the state of Washington. The preliminary binding site plan shall be consistent with the applicable standards and requirements identified in chapter 16.40 BMC.

I. If the applicant or property owner owns or controls adjoining contiguous parcels the application shall be accompanied by a sketch showing how the proposed street system would be extended to serve the adjoining parcels in the future so the street system can be considered as a whole;

J. Binding site plans shall be prepared consistent with the survey and design standards identified in chapter 16.40 BMC. (Ord. 1856 § 2 (Exh. B), 2018).

16.30.080 Distribution of preliminary applications.

Applications which have been deemed complete in accordance with the requirements of BMC Title 14A and BMC 16.30.070 shall be distributed and reviewed as follows:

- A. The building official shall review the application for compliance with chapter 15.04 BMC and the flood development regulations identified in chapter 14.15 BMC;
- B. The fire marshal shall review the application for compliance with chapter 15.08 BMC;
- C. The city engineer shall review the application for compliance with BMC Titles 12 and 13, and chapter 14.05 BMC.
- D. Each official identified above shall review the preliminary binding site plan application and, within 30 days, provide the director with a report; each report shall:
1. Document whether or not the application complies with the municipal code requirements, laws, and other regulations the official is charged with administering; and
 2. Recommended conditions of approval. If the official concludes that conditions are necessary in order to ensure the proposal complies with applicable regulatory requirements, recommended conditions of approval shall be included in the report; and
 3. The extent and type of improvements, infrastructure, utilities, roads, and dedications necessary to serve the subdivision or short subdivision; and
 4. Any permits or other regulatory approvals, such as grading permits, flood development permits, and right-of-way permits, that will be required prior to beginning the construction phase. (Ord. 1856 § 2 (Exh. B), 2018).

16.30.090 Approval criteria for preliminary applications.

A. Following the review process specified in BMC 16.30.080, the director shall prepare a report documenting, through written findings of fact, whether or not the proposed binding site plan complies with applicable municipal code requirements. If the director finds that the application complies with all applicable municipal code requirements, it shall be approved. If director finds that the application does not comply, or cannot comply, through the application of reasonable conditions of approval, it shall either be denied or returned to the applicant for corrections.

B. Preliminary binding site plan applications may be approved with conditions if the conditions are necessary to ensure compliance with applicable municipal code requirements, or to identify specific improvements or actions which must be completed prior to final approval. (Ord. 1856 § 2 (Exh. B), 2018).

16.30.100 Critical areas and natural hazards.

The following standards shall apply to all applications where critical areas, critical area buffers, or natural hazards are present within, or adjacent to, the proposed binding site plan:

A. No lot shall be created through a binding site plan which lacks an adequate building site outside of critical areas and critical area buffers unless restrictive notes are included on the face of the binding site plan permanently prohibiting development of the lot;

B. No lot shall be created through a binding site plan which lacks an adequate building site outside the floodway or special flood risk area, unless restrictive notes are included on the face of the binding site plan permanently prohibiting development of the lot or restricting the use of the lot to flood control structures and improvements;

C. No lot shall be created through a binding site plan which lacks an adequate building site unencumbered by natural hazards or natural hazard buffers unless the hazards can be mitigated to an acceptable level through the construction of protective improvements or other means consistent with provisions of chapter 14.15 BMC;

D. Under no circumstances shall a lot be created through a binding site plan which necessitates subsequent critical area variances or reasonable use determinations. Restrictive notes shall be included on the face of all binding site plans containing critical areas, critical area buffers, or natural hazards identifying the applicable development regulations and stating that no critical area variances or reasonable use determinations will be granted within the binding site plan boundaries. (Ord. 1856 § 2 (Exh. B), 2018).

16.30.105 Effect of preliminary binding site plan approval.

A. Following preliminary approval, all improvements and infrastructure required as conditions of the preliminary approval shall be constructed or installed. No application for final binding site plan approval shall be accepted until all of the required improvements and infrastructure have been completed.

B. All work done during the construction phase shall be consistent with the approved preliminary binding site plan and any conditions of approval.

C. All required permits and approvals must be obtained prior to beginning the construction phase, and all subsequent work shall be in strict accordance with the approved permits.

D. Preliminary binding site plan approvals shall be valid for a period of two years. A final binding site plan shall be submitted to the city for approval and recorded prior to the expiration of the preliminary approval. (Ord. 1856 § 2 (Exh. B), 2018).

16.30.110 Final application requirements.

Following the approval of a preliminary binding site plan, and the installation or construction of any required improvements, an application for final binding site plan approval may be submitted. Applications for final binding site plan approval shall be made on forms provided by the director and shall include all of the information required by the form in addition to all of the items listed below. Only applications including all of the information required by this section shall be deemed complete for purposes of complying with BMC Title 14A. A complete application shall include:

A. Any applicable fees in accordance with the fee schedule established by the city council;

B. Additional copies of all required information. The director shall specify the required number of copies in order to ensure that each department, or official, charged with reviewing the application can be provided with a copy;

C. A copy of the approved preliminary binding site plan and decision granting preliminary approval;

D. A statement from the city engineer indicating that the construction phase is complete and all required utilities, infrastructure, streets, roads, sidewalks, and other improvements have been installed in accordance with the approved preliminary binding site plan and any other applicable city requirements;

E. A statement from the Skagit Public Utility District indicating that water service has been extended to serve each lot in the binding site plan, unless the lot is designated on the face of the binding site plan for nonbuilding purposes;

F. A title report provided by a title insurance company licensed in the state of Washington, dated not more than 30 days prior to the application date, confirming that the title of the lands as described and shown on the face of the binding site plan is in the name of the owners signing the certificate;

G. A full set of survey notes consistent with the requirements of chapter 16.40 BMC;

H. A final binding site plan prepared by a land surveyor licensed in the state of Washington. The final binding site plan shall be consistent with the applicable standards and requirements identified in chapter 16.40 BMC. (Ord. 1856 § 2 (Exh. B), 2018).

16.30.120 Distribution of final applications.

Applications which have been deemed complete in accordance with the requirements of BMC Title 14A and BMC 16.30.110 shall be distributed and reviewed as follows:

A. The building official shall review the application to ensure that any conditions of preliminary approval relating to chapter 15.04 BMC and the flood development regulations identified in chapter 14.15 BMC have been met;

B. The fire marshal shall review the application to ensure that any conditions of preliminary approval related to chapter 15.08 BMC have been met;

C. The city engineer shall review the application with respect to accuracy, engineering standards, the survey and design requirements of chapter 16.40 BMC, and to ensure that any conditions of preliminary approval related to BMC Titles 12 and 13, and chapter 14.05 BMC have been met.

D. Each official identified above shall review the final binding site plan application and provide the director with a report addressing all of the following:

1. Whether or not the application complies with the municipal code requirements, laws, and regulations the official is charged with administering; and
2. Whether or not the conditions specified in the preliminary approval have been satisfied; and
3. Verifying that all improvements, infrastructure, utilities, roads, and dedications required by the preliminary approval have been provided, constructed, or installed; and
4. Verifying that all required permits or other regulatory approvals such as grading permits, flood development permits, and right-of-way permits have been obtained. (Ord. 1856 § 2 (Exh. B), 2018).

16.30.130 Final binding site plan approval process.

A. Following the review process specified in BMC 16.30.120, the director shall approve the final binding site plan application, return it to the applicant for corrections, or deny it within 30 days after filing an application meeting the criteria below.

B. Approval Criteria. Applications for final binding site plan approval shall be approved, denied, or returned to applicant for corrections based on the following criteria. Applications for final binding site plan approval which meet all of the following criteria shall be approved:

1. The final binding site plan is consistent with the approved preliminary approval; and
2. All of the conditions associated with the preliminary approval have been satisfied; and
3. All of the infrastructure and improvements required by the preliminary approval have been constructed, installed, or provided; and
4. The city engineer has certified that the final binding site plan is technically correct and accurate, complies with all applicable survey and mapping standards, and that all lot corner markers and permanent control monuments have been installed; and
5. The title insurance report submitted with the final application confirms that title of the land and the proposed binding site plan is vested in the name of the owners whose signatures appear on the face of the binding site plan certificate; and
6. All other applicable requirements of this chapter have been addressed. (Ord. 1856 § 2 (Exh. B), 2018).

16.30.140 Effect of final approval.

A. Once a final binding site plan has been approved and recorded, development within the binding site plan shall be governed by the terms of the approved binding site plan, and the statutes, ordinances, and regulations in effect at the time of its approval for a period of five years from the date of recording unless the city council finds that a change in conditions creates a serious threat to the public health or safety.

B. Lots within a binding site plan that has been approved and recorded shall be considered legal lots.

C. Recorded binding site plans may only be altered, modified, or vacated in accordance with chapter 16.50 BMC. (Ord. 1856 § 2 (Exh. B), 2018).

Chapter 16.40

SURVEY AND DESIGN STANDARDS

Sections:

- 16.40.010 Title.
- 16.40.020 Application.
- 16.40.030 Purpose.
- 16.40.040 Authority.
- 16.40.050 Access standards.
- 16.40.060 Design of lots and blocks.
- 16.40.070 Utilities.
- 16.40.080 Survey requirements.
- 16.40.090 Preliminary plat and binding site plan requirements.
- 16.40.100 Final plat and binding site plan requirements.
- 16.40.110 Dedications.

16.40.010 Title.

This chapter shall be called “Survey and Design Standards.” (Ord. 1856 § 2 (Exh. B), 2018).

16.40.020 Application.

This chapter shall apply as follows:

- A. Plats and binding site plans shall be subject to this chapter;
- B. The design specifications identified in this chapter shall apply to the design and construction of streets, roads, drainage facilities, sidewalks and other improvements serving plats and binding site plans;
- C. No plat or binding site plan shall be granted final approval unless the streets, roads, drainage facilities, sidewalks, and other improvements required by this chapter have been constructed, installed, or provided. (Ord. 1856 § 2 (Exh. B), 2018).

16.40.030 Purpose.

- A. Ensure that plats and binding site plans include appropriate provisions for the public health, safety, and general welfare, for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds, sidewalks, and planning features that assure safe walking conditions for students traveling to and from school;
- B. Establish uniform standards for the preparation of plats and binding site plans;
- C. Ensure that plats and binding site plans are accurate and consistent with applicable laws and regulations;
- D. Establish uniform design standards for the design and construction of streets, roads, drainage facilities, sidewalks, and other infrastructure or improvements within plats and binding site plans.
- E. Ensure that streets, roads, drainage facilities, sidewalks, and other improvements serving plats and binding site plans are compatible with, and can be easily connected to, adjoining properties and developments, thereby creating a uniform and interconnected system of public improvements. (Ord. 1856 § 2 (Exh. B), 2018).

16.40.040 Authority.

This chapter is adopted pursuant to chapters 36.70, 36.70A, 36.70B, 58.17 RCW and other applicable laws and regulations. (Ord. 1856 § 2 (Exh. B), 2018).

16.40.050 Access standards.

The design standards in this section shall apply to the design and construction of all plats and binding site plans. Vehicle and pedestrian access shall be provided as follows:

A. General.

1. Plats and binding site plans shall be served by one or more streets providing adequate ingress and egress.
2. The alignment of streets within plats and binding site plans shall conform to the city's street plan and allow streets adjoining the plat or binding site plan to be extended through the site.
3. Street intersections shall be as nearly at right angles as practicable and in no event shall the angle formed be less than 30 degrees.
4. Street networks shall conform to any applicable fire code requirements to ensure adequate access for emergency vehicles and equipment.
5. Unless warranted by special physical circumstances, the right-of-way for public streets shall be at least 60 feet wide.
6. Alleys shall be at least 16 feet wide plus such additional width as shall be necessary for an adequate turning radius.
7. Public streets, roads, alleys, and sidewalks shall conform to applicable standards identified in chapter 12.28 BMC.
8. Low impact development features such as bioretention areas, rain gardens, and permeable paving shall be incorporated into the design and construction of all streets unless demonstrated to be infeasible through an engineering analysis. In determining the feasibility of such low impact development features, an engineering analysis shall be submitted and reviewed by the city engineer. This analysis should consider site characteristics such as soil and ground water conditions, and anticipated traffic volumes. The analysis should be consistent with the Washington State Department of Ecology's "Stormwater Manual for Western Washington" and the design and site evaluation guidance in the Puget Sound Partnership's "Low Impact Development Technical Guidance Manual for Puget Sound."
9. All streets, bridges, sidewalks, and pedestrian access facilities shall be designed and constructed in accordance with plans and specifications prepared or approved by the city engineer.
10. All dedicated streets shall be graded to their full width with adequate drainage provided prior to acceptance for public use. Grades shall be established by the city engineer and all streets shall be surfaced according to plans and specifications prepared or approved by the city engineer.
11. Land divisions shall create, and contribute to, a fully connected network of streets. Unless explicitly waived by these requirements streets shall be extended to connect with adjacent streets and stubbed out to abutting properties to facilitate future access.

B. Private Streets. Vehicle and pedestrian access should be provided by public streets dedicated to the city. However, private streets and shared driveways may, at the city's discretion, be authorized if all of the following criteria are met:

1. The goals of the zoning code to provide for adequate light, air and usable open space between structures would not be compromised; and
2. The dedication and improvement of a public street is not necessary to facilitate the provision of public utilities such as water, sanitary sewer, storm drainage; and
3. The dedication and improvement of a street is not necessary or desirable in order to provide on-street parking for overflow conditions; and
4. No potential safety hazards would result from multiple access points between existing and future developments onto a roadway without curbs and with limited sight lines; and

5. There is no potential for extending the street system to connect with existing streets, or to serve potential development sites adjacent to the plat or binding site plan; and

6. Private streets shall be designed and constructed in accordance with the applicable standards identified in chapter 17.85 BMC.

C. Sidewalks and Pedestrian Access.

1. Sidewalks and pedestrian access shall be designed and constructed in accordance with the applicable standards identified in chapter 17.85 BMC.

2. Sidewalks should be provided along both sides of streets unless this requirement is explicitly waived by the City's adopted standards for public or private streets).

16.40.060 Design of lots and blocks.

A. Blocks. To implement the Comprehensive Plan, minimize travel distances, and create a fully interconnected street network, developments must produce complete blocks bounded by a connecting network of streets in accordance with the following standards.

1. Blocks shall be designed and arranged to provide for the safe and efficient movement of vehicles and pedestrians.

2. Blocks shall be identified on the face of the plat or binding site plan by letters or numbers.

3. Design standards for blocks in areas zoned RD, RA, MUR, or MUC-1:

a. Maximum block length: 600 feet

b. Maximum block perimeter: 1,600 feet

4. Design standard for blocks in areas zoned MUC-2, CI-1, or PFT-1:

a. Maximum block length: 600 feet

b. Maximum block perimeter: 2,000 feet

5. Design standards for blocks in areas zoned CI-2 or PFT-2: None

6. Design standards for blocks in areas zoned PC: None

7. General exceptions. An exception may be granted to standards for maximum block length or perimeter as minimally necessary due to severe topography, the presence of wetlands, or other significant critical area constraints, or for small sites. Exceptions may also be granted when street connections or stubs cannot feasibly be provided based on one or more of the factors listed in BMC 16.40.060.C.2. In such cases mid-block pedestrian paths may be required in order to provide adequate pedestrian circulation.

8. Partial blocks. Exceptions may be granted to the maximum permitted block perimeter in order to allow for the establishment of partial blocks bounded on one or more sides by a street(s) stubbed out to the site boundaries. When authorized, partial blocks shall comply with the applicable standard for block length and streets stubbed out to the site boundaries shall not be more than 150 feet in length, as measured from the nearest intersection.

B. Lots.

1. Lots shall either adjoin a street, or be served by a private access easement if permitted by this chapter and chapter 17.85 BMC.

2. Lots shall be numbered with reference to blocks. (Ord. 1856 § 2 (Exh. B), 2018).

3. The creation of through lots is prohibited in areas zoned RD.

C. Street connections.

1. Street connections shall be provided to all streets and street stub-ends that abut the boundary of the land division.
2. Streets shall be extended to the boundaries of the land division and stub-ends shall be provided to allow for future connections. Exceptions may be granted to this requirement as follows:
 - a. Where the abutting property is fully developed and there is little or no possibility of redevelopment occurring.
 - b. Where the abutting property is zoned PFT or PC.
 - c. Where the abutting property is located in unincorporated Skagit County and is zoned Ag-NRL.
 - d. Where the presence of significant critical area constraints make future street extensions infeasible.
 - e. Where the property abuts a railroad or limited access highway right-of-way that makes future street extensions infeasible.

16.40.070 Utilities.

A. Easements shall be provided for all utilities including storm water facilities.

B. All utility easements shall be designed and configured to allow access for inspection, maintenance, and repair purposes.

C. The design and configuration of easements for storm water and sanitary sewer facilities shall be reviewed and approved by the city engineer.

D. Low impact development techniques shall be incorporated into the design and construction of all plats and binding site plans in accordance with the provisions of chapter 17.70 BMC.

E. All storm water facilities shall be approved by the city engineer and shall be designed and constructed in accordance with the applicable standards identified in BMC Title 14.

F. Above ground utility installations, such as power and telephone lines, shall not be permitted unless the city engineer determines that topographic or geologic conditions make below ground installation infeasible.

G. Each lot in a plat or binding site plan shall be provided with a connection to a public water supply system. Lots used for nonbuilding purposes shall be exempt from this requirement provided a note is included on the face of the plat restricting the use of the lot to nonbuilding purposes.

H. Public water supply systems and connections shall be designed and constructed in accordance with any standards adopted by the Skagit Public Utility District.

I. Each lot in a plat or binding site plan shall be provided with a connection to the city's sanitary sewer system. Lots used for nonbuilding purposes shall be exempt from this requirement provided a note is included on the face of the plat restricting the use of the lot to nonbuilding purposes.

J. Sewer system components and connections shall be designed and constructed in accordance with any applicable standards adopted by the city of Burlington and shall be approved by the city engineer.

K. Service Mains and Fire Hydrants. Service mains and fire hydrants shall be installed and inspected by the City Engineer and Fire Marshal prior to final approval of plats and binding site plans. The design and construction of service mains and fire hydrants shall be consistent with all applicable standards and regulations, and all plans shall be approved by the city engineer and fire marshal. (Ord. 1856 § 2 (Exh. B), 2018).

16.40.080 Survey requirements.

Plats and binding site plans shall be based on a thorough survey and shall be prepared by a land surveyor licensed in the state of Washington. Plats and binding site plans shall be consistent with the following requirements:

A. The surveyor shall furnish the city engineer with a full set of survey notes which include:

1. The ties to each permanent monument;
2. At least three durable, distinctive reference points or monuments;
3. Sufficient data to determine readily the bearing and length of each line;
4. The base meridian referred to.

B. A traverse of the boundaries of the subdivision, short subdivision, or binding site plan and all lots and blocks shall close within one foot in 5,000 feet, as required by chapter 332-130 WAC.

C. Primary survey control points shall be referenced to section corners and monuments, and the corners of adjoining plats or binding site plans, or portions of plats or binding site plans, shall be identified and ties shown.

D. Prior to final plat or binding site plan approval, permanent control monuments shall be established at:

1. All controlling corners on the boundaries of the plat or binding site plan;
2. The intersections of centerlines of roads within the plat or binding site plan;
3. The beginning and ends of curves on centerlines;
4. All block corners.

E. Permanent control monuments may be placed on the offset lines. The position and type of every permanent monument shall be noted on all plats and binding site plans. Permanent control monuments shall be of a type approved by the city engineer.

F. Permanent control monuments within the streets shall be set after the streets are graded.

G. Each lot corner shall be marked by a three-quarter-inch galvanized iron pipe, 24 inches in length, or approved equivalent, driven into the ground, set with C cap per the requirements of RCW 58.19.120.

H. Prior to final plat or binding site plan approval the city engineer shall verify the required permanent control monuments and lot corner markers have been installed in accordance with the requirements of this chapter.

I. Property contiguous to water. If any land in a plat or binding site plan is contiguous to a body of water, a meander line shall be established along the shore at a safe distance back from the ordinary high water mark. Property lying below and beyond the meander line shall be defined by distance along the side property lines extended from the meander line. If the thread of a stream lies within a plat or binding site plan or forms the boundary of a plat or binding site plan, such thread shall be defined by bearings and distances as it exists at the time of the survey. (Ord. 1856 § 2 (Exh. B), 2018).

16.40.090 Preliminary plat and binding site plan requirements.

Preliminary plats and binding site plans shall be prepared by a land surveyor licensed in the state of Washington and shall include all of the following:

- A. A complete survey of the parcel being divided;
- B. The name of the proposed plat or binding site plan;
- C. North point and scale;
- D. The location of existing property lines, streets, buildings, watercourses, natural hazards, critical areas and critical area buffers, significant topographic features, and existing utilities;
- E. A legal description of the land contained within the plat or binding site plan;
- F. The names and addresses of all persons, firms and corporations holding interest in the lands, including easement rights and interest;
- G. The proposed locations, dimensions, and names of streets, alleys, and roadways;
- H. The location and dimensions of all proposed lots, lot lines, easements, common areas, storm water facilities, and dedications;
- I. The locations, dimensions, and centerlines of all public and private streets, roadways, and access easements adjoining the proposed plat or binding site plan;
- J. The approximate location of utilities adjoining the proposed plat or binding site plan;
- K. The proposed location and routing of utilities necessary to serve lots within the proposed plat or binding site plan;
- L. The names of adjoining plats or binding site plans;
- M. The surveyor's signature, license stamp, name, and contact information;
- N. The date of the survey;
- O. All existing monuments and markers located by the survey;
- P. The zoning classification applicable to the land within the plat or binding site plan;
- Q. The conditions of or the limitations on dedications, if any, including slope rights;
- R. Contour intervals as required, based upon city datum;
- S. Any other information required by Burlington Municipal Code or deemed necessary by the director for purposes of demonstrating compliance with regulatory requirements. (Ord. 1856 § 2 (Exh. B), 2018).

16.40.100 Final plat and binding site plan requirements.

Final plats and binding site plans shall be prepared by a land surveyor licensed in the state of Washington and shall include all of the following:

- A. A complete survey of the section or sections in which the plat, or replat, is located, or as many sections as may be necessary to properly orient the plat within the section or sections;
- B. Complete field and computation notes as provided in BMC 16.40.080;
- C. The final plat or binding site plan shall be printed on paper or other material acceptable to the Skagit County auditor and shall be 18 inches by 24 inches in size;
- D. The accuracy and completeness of the final plat or binding site plan shall be the sole responsibility of the surveyor preparing the plat or binding site plan. The surveyor shall make field surveys and investigations as necessary to ensure the map is complete and accurate in every detail;

E. The final plat or binding site plan shall be presented at a scale not smaller than 100 feet to one inch;

F. The final plat or binding site plan shall include the following:

1. The name of the plat or binding site plan;
2. The lines, widths and names of all streets, avenues, places, parks or other public property, and the location of monuments marking the same;
3. The length and direction of all lot lines, also the angles made by the lot lines with the street lines;
4. The location of control points and monuments together with all ties;
5. The names of all adjoining plats and binding site plans;
6. The scale and north point;
7. The boundary of the tract as covered by the plat or binding site plan showing courses and distance on the plat;
8. The initial point;
9. All protective improvements and restrictions on uses;
10. All dedications and all conveyances to a homeowner's nonprofit maintenance corporation in lieu of dedication;
11. Any notes, restrictions, or information required by Burlington Municipal Code or as a condition of preliminary plat or binding site plan approval;
12. Inscriptions or notes on the face of the plat or binding site plan setting forth all limitations and conditions for the use of land;
13. Inscription or notes on the face of the plat or binding site plan requiring that any development of the subject property be in conformance with the plat or binding site plan;
14. Tracts shall be individually identified by letters or numbers and notes shall be provided indicating the purpose, intended ownership, and permitted or prohibited uses for each tract.

G. Any additional information necessary to meet the standards for mapping set forth in chapter 332-130 WAC;

H. In the case of a plat alteration or binding site plan alteration, the lots, blocks, streets, alleys, easements and parks appearing on the original plat or binding site plan shall be shown by dotted lines in their proper position in relation to the new arrangement of the plat or binding site plan, and the new plat or binding site plan shall be shown clearly in solid lines to avoid ambiguity;

I. The following certificates and signature blocks shall be included on the face of the plat or binding site plan. The director may specify the specific content, or format, of the required signature blocks and certificates unless a specific format is prescribed by state law.

1. A dated surveyor's certificate including the surveyor's signature and license stamp;
2. A certificate giving a full and correct description of the lands divided as they appear on the plat or binding site plan, including a statement that the subdivision, short subdivision, or binding site plan has been made with the free consent and in accordance with the desires of the owners. If the plat is subject to a dedication, the certificate or a separate written instrument shall also contain the dedication of all streets and other areas to the public, an individual or individuals, religious society or societies or to any corporation, public or private as shown on the plat and a waiver of all claims for damages against any governmental authority which may be

occasioned to the adjacent land by the established construction, drainage and maintenance of the road. The certificate or instrument of dedication shall be signed and acknowledged before a notary public by all parties having any ownership interest in the land subdivided and recorded as part of the final plat;

3. A statement of approval from the city engineer as to the survey data, the layout of streets, alleys, and other rights-of-way, design of bridges, sewage and water systems, and other structures, and indicating the plat complies with BMC Titles 12, 13, and 14;

4. A statement of approval from the director indicating the plat or binding site plan complies with BMC Titles 15, 16, 17, and 18;

5. For subdivisions, a signature block indicating the city council's approval;

6. Be acknowledged by the person filing the plat before the auditor of the county in which the land is located, or any other officer who is authorized by law to take acknowledgment of deeds, and a certificate of said acknowledgment shall be enclosed or annexed to such plat or binding site plan and recorded therewith;

7. A certification from the Skagit County treasurer that all taxes and delinquent assessments for which the property may be liable as of the date of certification have been duly paid, satisfied or discharged;

8. A certification from the city treasurer that all taxes and delinquent assessments for which the property may be liable as of the date of certification have been duly paid, satisfied or discharged;

9. Be acknowledged by the person filing the plat before the Skagit County auditor or any other officer who is authorized by law to take acknowledgment of deeds, and a certificate of the acknowledgment shall be enclosed or annexed to the plat or binding site plan and recorded with it;

10. For binding site plans where a condominium or condominium conversion is proposed, the final plan drawing shall include a statement indicating that the plan is either for a "condominium development" or a "condominium conversion." (Ord. 1856 § 2 (Exh. B), 2018).

16.40.110 Dedications.

A. All subdivisions and short subdivisions shall include adequate provisions for the dedication of drainage ways, streets, alleys, easements, critical areas, parks, and other public open space areas as may be required by Burlington Municipal Code, Washington State law, or other applicable regulatory requirements.

B. All dedications shall be clearly and precisely indicated on the face of plat or binding site plan along with the intended purpose of the dedication and any associated restrictions on its use.

C. Protective improvements and easements allowing access, inspection, and maintenance of such improvements shall be dedicated to the city in accordance with applicable municipal code requirements.

D. City-owned and operated storm water facilities, infiltration areas, and conveyance or collection systems, as well as easements allowing access, inspection, and maintenance of such features shall be dedicated to the city in accordance with applicable municipal code requirements.

E. Easements being dedicated, and their intended purpose, shall be shown on the face of the plat or binding site plan and included in the certificate of dedication.

F. Convenient pedestrian and vehicular access to every lot shall be provided by a dedicated street unless a private street is authorized pursuant to BMC 16.40.050(B).

G. If the city concludes that the public interest will be served the city may, in lieu of requiring the dedication to the public of land in a subdivision for protective improvements, drainage ways, streets, alleys, sidewalks, parks and other open space, allow the land to be conveyed to a homeowner's nonprofit maintenance corporation. In such cases, prior to the time of filing a final plat or binding site plan for approval, articles of incorporation and bylaws of the grantee organization and evidence of the conveyance or of a binding commitment to convey shall be provided to the city. The articles of incorporation shall provide that membership in the corporation shall be conditioned upon

ownership of land in the plat or binding site plan, that the corporation is empowered to assess the land for costs of construction and maintenance of the improvements and property owned by the corporation, and that the assessment shall be a lien upon the land. The city attorney shall review and approve the articles of incorporation and bylaws as to compliance with this provision. The city council may impose other conditions as it deems appropriate to assure that property and improvements owned by the corporation will be adequately constructed and maintained.

H. Any dedication, donation or grant as shown on the face of the plat or binding site plan shall be considered, to all intents and purposes, as a quitclaim deed to the grantee or grantees, for his, her or their use for the purpose intended by the donors or grantors. (Ord. 1856 § 2 (Exh. B), 2018).

Chapter 16.50

ALTERATIONS AND VACATIONS

Sections:

16.50.010	Title.
16.50.020	Application.
16.50.030	Purpose.
16.50.040	Authority.
16.50.050	Approval required.
16.50.060	Review process.
16.50.070	Application requirements.
16.50.080	Approval criteria.
16.50.090	Effect of approval.

16.50.010 Title.

This chapter shall be called “Alterations and Vacations.” (Ord. 1856 § 2 (Exh. B), 2018).

16.50.020 Application.

This chapter shall apply to alterations, modifications, and vacations of recorded plats and binding site plans as follows:

A. Public Streets and Roads. The provisions of this section shall not apply to vacation requests that are strictly limited to vacating a public street or road. In such cases the procedures for street vacation are set forth in chapter 35.79 RCW.

B. All Other Vacations. The provisions of this section shall apply to all other alteration and vacation applications, and to proposals involving the vacation or alteration of a plat or binding site plan, or a portion of a plat or binding site plan, together with streets or roads within the plat or binding site plan. (Ord. 1856 § 2 (Exh. B), 2018).

16.50.030 Purpose.

The purpose of this chapter is to establish procedures and approval criteria for the alteration and vacation of recorded plats and binding site plans consistent with Washington State law (RCW 58.17.215 and 58.17.217). (Ord. 1856 § 2 (Exh. B), 2018).

16.50.040 Authority.

This chapter is adopted pursuant to chapters 36.70, 36.70.A, 36.70B, and 58.17 RCW and other applicable laws and regulations. (Ord. 1856 § 2 (Exh. B), 2018).

16.50.050 Approval required.

No recorded plat or binding site plan shall be modified, vacated, or altered without city approval. (Ord. 1856 § 2 (Exh. B), 2018).

16.50.060 Review process.

A. Short Subdivisions. Applications to alter a recorded short plat shall be processed in the same manner as new applications for short plat approval and shall require both preliminary and final approval.

B. Subdivisions. Applications to alter a recorded subdivision shall be processed in the same manner as new applications for subdivision approval and shall require both preliminary and final approval.

C. Binding Site Plans. Applications to alter a recorded binding site plan shall be processed in the same manner as new applications for binding site plan approval and shall require both preliminary and final approval. (Ord. 1856 § 2 (Exh. B), 2018).

16.50.070 Application requirements.

In addition to any information normally required for preliminary or final approval, alteration applications shall be subject to the following additional requirements:

A. The application shall include the signatures of a majority of those persons having an ownership interest in the lots, tracts, parcels, sites, or divisions that would be modified or affected by the proposed alteration. If the subdivision, short subdivision or binding site plan is subject to restrictive covenants that were filed at the time the original plat or binding site plan was recorded, and if the proposed alteration would result in the violation of the covenants, the application shall contain an agreement signed by all parties subject to the covenants providing that the parties agree to terminate or alter the relevant covenants to accomplish the purpose of the proposed alteration;

B. Plats and binding site plans submitted for preliminary and final approval shall be titled "Alteration of (insert subdivision/short subdivision/binding site plan name)" and shall show the entire plat or binding site plan and the portion being altered. The final plat or binding site plan shall be prepared in such a way that the altered portions or features can be easily distinguished from the portions or features which will remain unaltered. The altered plat or binding site plan shall also include a note indicating the nature of the alteration;

C. If an easement created by the original plat or binding site plan will be altered or vacated the application shall include written approval from any person, utility, company, or other entity that has a vested interest in the easement. (Ord. 1856 § 2 (Exh. B), 2018).

16.50.080 Approval criteria.

A. General. The alteration shall not be used to create additional lots.

B. Short Subdivisions. Alterations of short subdivisions shall be subject to the same approval criteria applicable to new short subdivisions.

C. Subdivisions. Alterations of subdivisions shall be subject to the same approval criteria applicable to new subdivisions.

D. Binding Site Plans. Alterations of binding site plans shall be subject to the same approval criteria applicable to new binding site plans. (Ord. 1856 § 2 (Exh. B), 2018).

16.50.090 Effect of approval.

A. Lots modified by a recorded plat alteration shall be considered legal lots.

B. If an alteration vacates land dedicated to the public the land shall be deeded to the city unless the city determines that retaining title to the land would not serve the public interest.

C. Title to vacated property, other than land dedicated to the public, shall vest with the rightful owner as shown in the county records. If the vacated land is land that was dedicated to the public, and the city has found that retaining title to the land is not in the public interest, title to the vacated land shall vest with the property owners on each side of the dedication, as determined by the city.

D. When a public street is vacated title to the vacated street shall vest with the property owners on each side of the street. (Ord. 1856 § 2 (Exh. B), 2018).

Chapter 16.60

BOUNDARY LINE ADJUSTMENTS

Sections:

- 16.60.010 Title.
- 16.60.020 Application.
- 16.60.030 Purpose.
- 16.60.040 Authority.
- 16.60.050 Review process.
- 16.60.060 Application requirements.
- 16.60.070 Approval criteria.
- 16.60.080 Final approval.
- 16.60.090 Effect of boundary line adjustment approval.

16.60.010 Title.

This chapter shall be called “Boundary Line Adjustments.” (Ord. 1856 § 2 (Exh. B), 2018).

16.60.020 Application.

A. This chapter shall apply to the adjustment of boundary lines between platted or unplatted lots or both.

B. The elimination of lot lines or the combination of lots shall be subject to this chapter.

C. This chapter shall not apply to any action which creates an additional lot, parcel, site, or division. (Ord. 1856 § 2 (Exh. B), 2018).

16.60.030 Purpose.

This chapter is intended to create a process for reviewing boundary line adjustments and lot combinations for compliance with the requirements of this chapter, BMC Title 17, Washington State law, and other applicable regulatory requirements. (Ord. 1856 § 2 (Exh. B), 2018).

16.60.040 Authority.

This chapter is adopted pursuant to chapters 36.70, 36.70A, 36.70B and 58.17 RCW as well as other applicable laws and regulations. (Ord. 1856 § 2 (Exh. B), 2018).

16.60.050 Review process.

A. Approval Required. City approval is required for all boundary line adjustments and lot combinations. Any lots created, combined, or reconfigured without city approval shall be considered illegal lots.

B. Applications for boundary line adjustments and lot combinations shall be processed as Type I decisions in accordance with BMC Title 14A. (Ord. 1856 § 2 (Exh. B), 2018).

16.60.060 Application requirements.

Applications for boundary line adjustment and lot combination approval shall be made on forms provided by the director and shall include all of the information required by the form in addition to all of the items listed below. Only applications which include all of the information required by this section shall be deemed complete for purposes of complying with BMC Title 14A. A complete application shall include:

A. A site plan showing the existing lot configuration and a site plan showing the proposed lot configuration. The required site plans shall be prepared as follows:

1. All drawings shall be submitted on eight-and-one-half-inch by 11-inch or legal sized paper and shall be prepared by a land surveyor licensed in the state of Washington.
2. Margins shall be provided consistent with any requirements established by the Skagit County auditor for recorded documents.

3. Existing Site Plan. The site plan showing existing conditions and lot configuration shall include:
 - a. Layout and dimensions of all lots included in the adjustment or combination;
 - b. Assessor's parcel numbers for each lot;
 - c. North arrow;
 - d. Date of preparation;
 - e. Scale;
 - f. The area of each lot included in the adjustment or combination in square feet;
 - g. Each existing lot shall be assigned an identifying number or letter;
 - h. The location of all existing buildings, structures, utilities, driveways, sidewalks, and easements;
 - i. The location of all public and private roads abutting the lots included in the adjustment or combination;
 - j. Surveyor's license stamp, signature, and contact information.
4. Proposed Site Plan. The site plan showing proposed conditions and lot configurations shall include:
 - a. Layout and dimensions for the proposed lot configurations;
 - b. North arrow;
 - c. Date of preparation;
 - d. Scale;
 - e. The proposed area of each lot in square feet;
 - f. Each proposed lot shall be assigned an identifying number or letter;
 - g. The location of all existing buildings, structures, utilities, driveways, sidewalks, and easements in relation to the proposed lot lines;
 - h. The location of all public and private roads abutting the lots included in the adjustment or combination;
 - i. Surveyor's license stamp, signature, and contact information.
- B. Names and contact information for each property owner involved in the adjustment or combination.
- C. Name and contact information for the applicant.
- D. Legal descriptions prepared by a title company or licensed land surveyor for the existing and proposed lot configurations.
- E. Any applicable fees in accordance with the fee schedule established by the city council.
- F. Additional copies of all required information. The director shall specify the required number of copies in order to ensure that each department, or official, charged with reviewing the application can be provided with a copy. (Ord. 1856 § 2 (Exh. B), 2018).

16.60.070 Approval criteria.

Boundary line adjustments shall not be approved unless consistent with all of the following:

- A. No additional lots shall be created.
- B. All of the lots included in the boundary line adjustment or lot combination shall be legal lots unless the purpose of the adjustment or combination is to remedy a zoning or platting violation.
- C. The boundary line adjustment or lot combination shall not create a lot which lacks sufficient area to meet the minimum lot size requirements for the zone in which it is located. For boundary line adjustments involving nonconforming lots, the adjustment shall not cause a lot to become smaller, or less conforming, with respect to the applicable standards for area or dimension.
- D. The boundary line adjustment shall not cause a building or structure to violate a required property line setback. For boundary line adjustments involving structures which are nonconforming with respect to setback requirements, the adjustment or combination shall not increase the degree of nonconformity.
- E. The boundary line adjustment or lot combination shall not create a lot which lacks legal access.
- F. All of the resulting lots shall comply with the Burlington Municipal Code standards for access.
- G. The following statement shall appear on deeds or conveyance documents affecting the adjustment: "This boundary line adjustment is not for the purpose of creating an additional lot."
- H. The boundary line adjustment or lot combination shall not create a lot which is bisected by a zoning district or comprehensive plan designation boundary.
- I. The boundary line adjustment or lot combination shall not create a lot which is bisected by an urban growth area boundary.
- J. The boundary line adjustment or lot combination shall not create a lot which is bisected by the jurisdictional boundary between the city of Burlington, another city, or unincorporated Skagit County.
- K. The boundary line adjustment shall not cause a lot, structure, or development to violate the Burlington Municipal Code. (Ord. 1856 § 2 (Exh. B), 2018).

16.60.080 Final approval.

- A. Following the review process specified above, the director shall approve the final plat application, return it to the applicant for corrections, or deny it within the 30 days after filing an application meeting the criteria above.
- B. Boundary line adjustments and lot combinations approved by the city shall be signed by the director and returned to the applicant for recording. One copy of the approved boundary line adjustment shall be retained by the city.
- C. Approved boundary line adjustments shall be recorded within two years of the date of approval and a copy of the recorded boundary line adjustment shall be provided to the city. (Ord. 1856 § 2 (Exh. B), 2018).

16.60.090 Effect of boundary line adjustment approval.

Lots reconfigured by an approved boundary line adjustment or lot combination shall be considered legal lots. (Ord. 1856 § 2 (Exh. B), 2018).

Chapter 16.70

INNOCENT PURCHASER AND TESTAMENTARY DIVISIONS

Sections:

- 16.70.010 Title.
- 16.70.020 Application.
- 16.70.030 Purpose.
- 16.70.040 Authority.
- 16.70.050 Approval required.
- 16.70.060 Review process.
- 16.70.070 Application requirements.
- 16.70.080 Approval criteria.
- 16.70.090 Effect of approval.

16.70.010 Title.

This chapter shall be called “Innocent Purchaser and Testamentary Divisions.” (Ord. 1856 § 2 (Exh. B), 2018).

16.70.020 Application.

A. This chapter shall apply to all lots created through testamentary provisions and laws of descent.

B. Applications for innocent purchaser status shall be subject to this chapter. (Ord. 1856 § 2 (Exh. B), 2018).

16.70.030 Purpose.

A. To provide a means of ensuring that lots created through testamentary divisions comply with applicable zoning and development standards.

B. To provide a process for granting relief to innocent purchasers of lots created in violation of platting and zoning regulations. (Ord. 1856 § 2 (Exh. B), 2018).

16.70.040 Authority.

This chapter is adopted pursuant to chapters 36.70, 36.70A, 36.70B and 58.17 RCW as well as other applicable laws and regulations. (Ord. 1856 § 2 (Exh. B), 2018).

16.70.050 Approval required.

A. No lot created by a testamentary division shall be recognized as a legal lot without city approval.

B. No owner of an illegal lot shall be recognized as an innocent purchaser without city approval. (Ord. 1856 § 2 (Exh. B), 2018).

16.70.060 Review process.

A. Testamentary Divisions. Applications for recognition of lots created through testamentary provisions shall be processed as Type I decisions in accordance with the provisions of BMC Title 14A.

B. Innocent Purchaser. Applications for innocent purchaser status shall be processed as Type II decisions in accordance with the provisions of BMC Title 14A. (Ord. 1856 § 2 (Exh. B), 2018).

16.70.070 Application requirements.

A. Testamentary Divisions. Applications for recognition of lots created through testamentary provisions shall be made on forms provided by the director and shall include all of the information required by the form in addition to all of the items listed below. Only applications which include all of the information required by this section shall be deemed complete for purposes of complying with BMC Title 14A. A complete application shall include:

1. A completed application form;
2. Any applicable fees in accordance with the fee schedule established by the city council;

3. Documentation establishing the lots were created by testamentary provisions or the laws of descent;
4. A survey prepared by a land surveyor licensed in the state of Washington showing the area and dimensions of the lots;
5. Legal descriptions for each lot prepared by a title company or surveyor;
6. Additional copies of all required information. The director shall specify the required number of copies in order to ensure that each department, or official, charged with reviewing the application can be provided with a copy.

B. Innocent Purchaser. Applications for innocent purchaser status shall be made on forms provided by the director and shall include all of the information required by the form in addition to all of the items listed below. Only applications which include all of the information required by this section shall be deemed complete for purposes of complying with BMC Title 14A. A complete application shall include:

1. A completed application form;
2. Any applicable fees in accordance with the fee schedule established by the city council;
3. Documentation establishing the owner of the lot purchased the property for value and in good faith, and did not have knowledge of the fact that the property acquired was created in violation of this title;
4. A survey prepared by a land surveyor licensed in the state of Washington showing the area and dimensions of the lot;
5. Legal descriptions for each of the lots prepared by a title company or surveyor;
6. Additional copies of all required information. The director shall specify the required number of copies in order to ensure that each department, or official, charged with reviewing the application can be provided with a copy. (Ord. 1856 § 2 (Exh. B), 2018).

16.70.080 Approval criteria.

A. Testamentary Divisions.

1. Each lot shall meet the minimum standards for area and dimension prescribed by the zoning code;
2. Each lot shall adjoin or have legal access to a public road right-of-way or private road easement.

B. Innocent Purchaser.

1. Substantial evidence is provided that clearly indicates the property owner purchased the illegally created lot without notification or knowledge of the fact it was illegally divided from a larger parcel or adjusted without city approval;
2. The property in question shall comply with minimum standards for area and dimension prescribed by the zoning code. Lots that do not comply with the applicable standards for area and dimension may be eligible for recognition provided they are large enough to accommodate a building site outside of the setbacks required by the zoning code, critical areas, and critical area buffers. In such cases a survey shall be submitted showing the location and dimensions of the proposed building envelope. As a condition of approval the survey shall be recorded and shall include a notation indicating that subsequent variances or reasonable use determinations will not be granted for the purpose of authorizing development outside of the envelope shown on the survey;
3. If the property owner owns adjoining lots, and if combining the illegal lot with the adjoining lots would remedy the platting or zoning violation which caused the lot to be considered illegal, the lots shall be combined as a condition of approval. (Ord. 1856 § 2 (Exh. B), 2018).

16.70.090 Effect of approval.

A. Testamentary Divisions. Once recognized by the city lots created by a testamentary division shall be considered legal lots.

B. Innocent Purchaser. If the city recognizes the owner of an illegally created lot as an innocent purchaser the lot shall be considered a legal lot. (Ord. 1856 § 2 (Exh. B), 2018).