

**Title 16**

**SUBDIVISIONS**

**Chapters:**

**16.04 Subdivisions and Plats**

**16.08 Short Subdivisions**

**16.12 *Repealed***

**16.16 Boundary Line Adjustments**

**Chapter 16.04****SUBDIVISIONS AND PLATS**

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**16.04.010 Purpose and name.**

The purpose of this chapter is to regulate the subdivision of land and to promote the public health, safety, and general welfare in accordance with standards established by the state of Washington. This chapter shall be known as the subdivision ordinance and may be cited as such. (Ord. 1058 § 1, 1998)

**16.04.020 Definitions.**

For the purposes of this chapter the terms set out in this section shall have the meanings indicated.

A. “Dedication” means the deliberate appropriation of land by an owner for any general and public uses, reserving to the owner 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. For purposes of this chapter, public dedication shall not be construed to include the deeding of additional rights-of-way for the purpose of widening town streets. The intention to dedicate shall be evidenced by the owner by the

presentment for filing of a final plat showing the dedication thereon, and the acceptance by the public shall be evidenced by the approval of such plat for filing by the town.

B. “Final plat” means the final drawing of the subdivision and dedication prepared for filing for record with the county auditor and containing all elements and requirements set forth in this chapter and state law.

C. “Lot” means a fractional part of platted lands, having fixed boundaries and being of sufficient area and dimension to meet minimum zoning requirements for width and area. The term shall include tracts and parcels.

D. “Lot depth” means the distance measured from the midpoint of the lot line fronting a road or street to the midpoint of the line opposite.

E. “Lot width” means the distance measured between the midpoints of the two principal side lot lines at approximately right angles to the lot depth.

F. “Preliminary plat” means an initial drawing of a proposed subdivision showing the general layout of streets and alleys, lots, blocks, and other elements of a proposed subdivision, which shall be the basis for the approval or disapproval of the general layout of a subdivision.

G. “Replat” means a map or representation of a subdivision that has been altered, vacated, or partially vacated.

H. “Subdivision” means the division or redivision of land into five or more lots, tracts, parcels, sites or divisions for the purpose of sale, lease, or transfer of ownership. (Ord. 1058 § 2, 1998)

**16.04.030 Applicability.**

Except as exempted by the provisions of RCW 58.17.040, every subdivision of land within the town shall conform to the conditions and the procedures of this chapter. (Ord. 1058 § 3, 1998)

**16.04.040 Application.**

The land use administrator is vested with the duty of administering the provisions of this chapter. The nonrefundable application fee for all applications governed by this chapter shall

be reviewed annually by the town council who shall direct the town clerk to adjust the fee appropriately and post such list of land use permit application fees in a conspicuous place within Town Hall and make such list available to the public upon request. (Ord. 1058 § 4, 1998)

#### **16.04.050 Preliminary approval.**

A. All preliminary plats shall be reviewed by the planning commission, which shall submit its recommendations thereon to the council within 14 days after completing its review. The planning commission shall hold a public hearing prior to submitting its recommendations to the council.

B. The council shall, at its next meeting after receiving the commission's recommendations, set a date for a public meeting where it shall consider the planning commission's recommendations. At the conclusion of the public meeting the council shall adopt or reject the commission's recommendations based on the record established at the commission's public hearing. If the council determines that a change to the commission's recommendations is necessary, it may adopt its own recommendations and approve or reject the preliminary plat.

C. A proposed subdivision shall not be approved unless the council makes written findings that:

1. Appropriate provisions are made for the public health, safety, and general welfare and for such 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 and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and

2. The public use and interest will be served by the platting of such subdivision.

D. Dedication of land to any public body, provision of public improvements to serve the subdivision, and/or impact fees imposed under RCW 82.02.050 through 82.02.090 may be required as a condition of subdivision

approval. Dedications shall be clearly shown on the final plat. No dedication, provision of public improvements, or impact fees imposed under RCW 82.02.050 through 82.02.090 shall be allowed that constitutes an unconstitutional taking of private property. The council shall not, as a condition to the approval of any subdivision, require a release from damages to be procured from other property owners. (Ord. 1058 § 5, 1998)

#### **16.04.060 Preliminary plat standards.**

Every preliminary plat shall consist of one or more plans and profiles, the horizontal scale of which shall be 100 feet to the inch, and the vertical scale of which, for street and sewer profiles, shall be 20 feet to the inch, together with written data in such form that when the maps and written data are considered together they shall fully and clearly disclose the following information:

- A. The name of the proposed subdivision;
- B. The legal description of land contained within the subdivision;
- C. The names, addresses and telephone numbers of all persons, firms, and corporations holding interests in said land;
- D. The name, address, telephone number and seal of the registered land surveyor who made, or under whose supervision was made, a survey of the proposed subdivision;
- E. The date of said survey;
- F. The boundary lines of the proposed subdivision;
- G. The location of all existing monuments and markers;
- H. The boundaries of all blocks and lots within the proposed subdivision, together with the numbers proposed to be assigned each lot and block;
- I. The location, name and width of all existing streets, roads and easements within the proposed subdivision and adjacent thereto;
- J. The location and, where ascertainable, size of all permanent buildings, wells, watercourses, all bodies of water, all utilities, municipal boundaries, section lines, township lines, and other important features existing upon or under the land proposed to be subdivided;

K. Contour maps shall have sufficient contour intervals to show the topography of the land to be subdivided and shall be referenced to either the county datum or other datum acceptable to the council;

L. A layout of proposed streets, alleys, utility mains, and parcels proposed to be dedicated or reserved for public or community school, park, playground or other uses;

M. Plans and profiles of proposed water distribution systems, sewage disposal systems and drain systems, indicating locations, including therewith the design data for the sizing of all such utilities, etc., if requested by the administrator;

N. A map of the general vicinity in which the land proposed for subdivision lies, upon which are identified owners of land adjacent to the subdivision and the names of any adjacent subdivisions;

O. A copy of all restrictive covenants proposed to be imposed upon land within the subdivision; and

P. The calculated area in square feet of all lots. (Ord. 1058 § 6, 1998)

#### **16.04.070 Design – General.**

A. All streets, sidewalks, curbs, storm sewers, and related structures or devices shall be constructed in accordance with town standards in effect at the time of construction.

B. Land on which exists any topographical condition hazardous to the safety or general welfare of persons or property in or near a proposed subdivision shall not be subdivided unless the construction of protective improvements will eliminate the hazards, or not expose persons or property to the hazard. Protective improvements and restrictions on use shall be clearly noted on the plat. (Ord. 1058 § 7, 1998)

#### **16.04.080 Design – Minimum lot size.**

Except for lots within an approved planned residential development, the lot size for any lot subdivided under this chapter shall be 9,000 square feet. (Ord. 1245 § 8, 2004; Ord. 1058 § 8, 1998)

#### **16.04.090 Design – Frontage.**

Except for lots within an approved planned residential development, no lot shall have a width of less than 75 feet at the front or rear building site lines and every lot shall have at least 30 feet of frontage upon the public access. (Ord. 1245 § 9, 2004; Ord. 1058 § 9, 1998)

#### **16.04.100 Design – Setbacks.**

Every plat shall provide upon its face a setback restriction that complies with the setback requirements of the zone within which the plat exists. (Ord. 1058 § 10, 1998)

#### **16.04.110 Design – Lot access.**

Except for lots within an approved planned residential development, access to all lots shall be provided by a public street. Street construction shall be in accordance with town of Friday Harbor street and storm drainage standards as defined by Chapter 12.02 FHMC. Acceptance of the plat by the town will not occur until all requirements of Chapter 12.02 FHMC are completed, or until the developer deposits with the town treasurer a bond in sufficient amount to assure that same will be accomplished within two years and without additional expenditure to the town. (Ord. 1245 § 10, 2004; Ord. 1058 § 11, 1998)

#### **16.04.120 Design – Easements.**

Easements for all utilities, public and private, shall be of sufficient width to assure maintenance and to permit future utility installations. (Ord. 1058 § 12, 1998)

#### **16.04.130 Design – Municipal utilities.**

A. All municipal utilities shall be constructed in accordance with town standards in effect at the time of installation and approved by the town's engineer.

B. No lots shall be subdivided or offered for sale unless said lots have been connected to the town's water, sewer, and storm water systems. (Ord. 1058 § 13, 1998)

#### **16.04.140 Design – Private utilities.**

Private utilities, when installed, shall be underground. (Ord. 1058 § 14, 1998)

**16.04.150 Final plat – Standards.**

A. Every final plat shall consist of one or more pages, each sheet shall measure 24 inches by 36 inches, leaving two inches of blank margin on the left-hand narrow edge for binding purposes and a one-inch margin on the remaining sides, clearly and legibly drawn on tracing cloth, stable base mylar polyester film, or equivalent approved material. All drawing and lettering on the final plat shall be in permanent black ink or an approved equivalent. The perimeter of the subdivision shall be depicted with heavier lines than appear elsewhere on the plat. The scale shall be 100 feet to one inch. A marginal line shall be drawn completely around each sheet, leaving an entirely blank margin of three inches on the left side and one inch on the remaining sides. Each sheet of final plat shall contain the subdivision's name, the scale and the north point. All signatures affixed to a final plat shall be original signatures written in permanent black ink.

B. Every final plat shall include an accurate map of the subdivided land, based upon a complete survey thereof, which map shall include:

1. All section, township, municipal and county lines lying within or adjacent to the subdivision;
2. The location of all monuments or other evidence used as ties to establish the subdivision's boundaries;
3. The location of all permanent streets within and adjoining the subdivision;
4. The boundary of the subdivision with complete bearings and lineal dimensions;
5. The length and bearings of all straight lines; the radii, arcs and semitangents of all curves;
6. The length of each lot line, together with bearings and other data necessary for the location of any lot line in the field;
7. The location, width, centerline, and name or number of all streets within and adjoining said subdivision;
8. The location and width, shown with broken lines, and description of all easements;
9. Numbers assigned to all lots and blocks within the subdivision;
10. Names of owners of land.

C. In addition to the map or maps, every final plat shall contain written data including:

1. The name of the subdivision;
2. The legal description of land contained within the subdivision;
3. A certificate of the registered land surveyor who made, or under whose supervision was made, the survey of the subdivision in substantially the following language:

I, \_\_\_\_\_, registered as a land surveyor of the State of Washington, certify that this plat is based on an actual survey of the land described herein, conducted by me or under my supervision, during the period of \_\_\_\_\_, \_\_\_\_\_, through \_\_\_\_\_, \_\_\_\_\_; that the distances, courses and angles are shown thereon correctly; and the monuments other than those monuments approved for setting at a later date, have been set and lot corners staked on the ground as depicted on the plat.

4. A statement of approval signed by the engineer as to:

- a. Survey data;
- b. Layout of streets, alleys, and easements;
- c. Street names and numbers;
- d. The design and/or construction of protective improvements, bridges, sewage and drainage systems;

5. A statement of approval as to the design and/or construction of sanitary sewage disposal systems and public water supply systems installed in the subdivision signed by the appropriate official;

6. If any portion of the subdivision lies within a flood-control zone, a statement of approval signed by the appropriate state official;

7. A certificate bearing the typed or printed names of all persons having an interest in the subdivided land, signed by said persons and acknowledged by them before a notary public, consenting to the subdivision of said land and reciting a dedication by them of all land shown on the plat to be dedicated for public or other uses and a waiver by them and their

successors of all claims for damages against any governmental authority arising from the construction and maintenance of public facilities and public property within the subdivision;

8. A certificate signed by the county treasurer certifying that all taxes for one year in advance, on all the property in the proposed subdivision, and all delinquent assessments for which the land within the subdivision may have been liable have been duly paid, satisfied or discharged. Said certificate shall read as follows:

**TREASURER'S CERTIFICATE:** All taxes and assessments of the current year, \_\_\_\_\_, including advance taxes per RCW 58.08.040, for current year tax not yet levied or certified and any delinquent taxes or assessments which have become a lien upon the lands herein described have been fully paid and discharged according to the records of my office. If any penalty fees are due under the provisions of the Open Space or DFL Law (Chapters 84.33 and 84.34 RCW), this does not guarantee that they have been paid.

\_\_\_\_\_  
San Juan County Treasurer      Date

9. A certificate of capacity as required by FHMC Title 17; and

10. Space for approval by the town.

D. Every plat containing a dedication must be accompanied by a title report confirming that title to the land is vested in the names of the owners who are signing the dedication.

E. All information set forth on the face of the final plat shall also be furnished in such digital form as is required by the town. (Ord. 1280 § 2, 2005; Ord. 1058 § 15, 1998)

#### **16.04.160 Final approval.**

A. A final plat, conforming to all of the terms and conditions of the preliminary plat approval, must be submitted to the town council for approval within five years of the date of preliminary approval; provided, however, that for subdivisions that have received prelimi-

nary approval for development in more than one phase:

1. Final approval for the first phase within said time limit shall entitle the applicant to submit requests for final approval of additional phases in accordance with a schedule of time limits established by the town council at the time final approval is granted for the first phase;

2. Whenever the town council authorizes final approval of a phased development to occur more than five years from the date of preliminary plat approval, it shall do so on the condition that all streets and utilities constructed or installed more than five years after preliminary approval shall meet the town standards in effect at the time any such final approvals are made; and

3. Under no circumstance may the town council authorize final approval of the last phase more than 20 years after the date of preliminary approval.

B. Except as provided in subsections C and D of this section, final plat approval shall not be given until:

1. All public improvements required by preliminary plat approval have been installed to the satisfaction of the town and either:

a. Ninety days has passed since the last date on which the work on the improvements was done; or

b. All contractors and suppliers who have done work or provided materials for the improvements have signed lien releases and copies have been filed with the town; and

2. A maintenance bond has been approved by the town, in accordance with subsection F of this section.

C. In lieu of complete installation of all public improvements, the town administrator may approve a performance bond or a letter of credit under the following circumstances:

1. The developer submits an application no later than 180 days prior to expiration of preliminary plat approval, together with such application fee as is required by the town. The application shall contain:

a. A certification by a professional engineer registered in the state of Washington that public improvements totaling at least 75

percent of the cost of all required public improvements have been installed and accepted by the town; and

b. A certified and itemized estimate prepared by a professional engineer registered in the state of Washington of the cost of the remaining public improvements; and

2. The town shall have accepted, as complete and satisfactory, all required public improvements except for sidewalk installation and/or final street surfacing as provided for in the town's adopted street standards. The exception for sidewalks does include installation of all required curb and gutter improvements; and

3. A performance bond or letter of credit in a form satisfactory to the town and in an amount that is two times the certified estimate of the cost of the remaining improvements has been issued by a surety or bank acceptable to the town. As an alternative to a performance bond issued by an acceptable surety, the town may accept a performance bond which has been duly executed by the developer and secured by a deed of trust lien on real property which has equity equal to or greater than two times the certified estimate of the cost of the remaining improvements. As a condition to accepting a performance bond secured by real estate, the developer may be required to provide the town with a title report and an appraisal by persons or firms acceptable to the town; and

4. Evidence that all permits and licenses necessary for the construction and installation of the remaining improvements have been obtained; and

5. Evidence that the applicant has met all other requirements and conditions for final plat approval.

In determining whether to accept a performance bond or letter of credit, the town administrator shall consider any specific hardship preventing timely completion of the improvements, the degree of risk the town would be assuming if sidewalk and/or final street surfacing are deferred for up to one year, and any other factors the town administrator deems relevant to the protection of the public interest.

The administrator may, at his sole discretion, reject or conditionally approve the application if it determines that unconditional approval would likely cause a significant risk to the town or its citizens. All applications shall be acted on within 45 days of being accepted as a complete submittal. The administrator's decision on any application shall be the final decision of the town.

An approved performance bond or letter of credit shall not be released until such time as all improvements have been installed to the satisfaction of the town and the requirement of either subsection (B)(1)(a) or (B)(1)(b) of this section, and the requirement of subsection (B)(2) of this section, have been met; provided, however, that the town administrator may approve a reduction in the amount of the performance bond upon receipt of satisfactory evidence that public improvements totaling at least 90 percent of the cost of all required public improvements have been installed and accepted by the town. No more than one reduction shall be allowed and the reduction shall not be greater than one-half of the original bond amount.

D. In lieu of complete installation of all public improvements or an approved performance bond or letter of credit, the town administrator may approve an escrow account under the following circumstances:

1. The developer submits an application no later than 90 days prior to expiration of preliminary plat approval, together with such application fee as is required by the town. The application shall contain a certification by a professional engineer registered in the state of Washington that the cost of all remaining public improvements will not exceed \$10,000; and

2. The town shall have accepted, as complete and satisfactory, all required public improvements except those for which the escrow account is being requested; and

3. Evidence that all permits and licenses necessary for the construction and installation of the remaining improvements have been obtained; and

4. Evidence that the applicant has met all other requirements and conditions for final plat approval.

Escrow accounts shall be held and invested by the town treasurer until such time as all improvements have been installed to the satisfaction of the town and the requirement of either subsection (B)(1)(a) or (B)(1)(b) of this section, and the requirement of subsection (B)(2) of this section, have been met. Any interest on the escrow account shall accrue to the town's general fund.

At the time the escrow account is established the town administrator and the applicant shall jointly instruct the town treasurer in writing to hold the approved amount in escrow and release the monies upon the first of the following events to occur:

To the developer when either: The town administrator provides written certification to the treasurer that the required improvements for which the subject escrow account was created have been timely and fully installed; or 18 months have elapsed since the date of filing of the final plat and no claim has been made against the escrow account by the town administrator under the paragraph immediately below; or

To the town administrator upon receiving written certification from him or her that 12 months have elapsed since the filing of the final plat and the required improvements for which the escrow account was created have not been installed by the applicant, in whole or in part. The town administrator shall include with the certification documentation concerning any costs associated with the installation of the required improvements by the town or its agents. The treasurer shall release to the town administrator only such amount as equals the town's actual costs of installation, including any administrative costs or expenses incurred by the town administrator in having the required improvements completed. Any monies remaining after the disbursement to the town administrator shall be released to the applicant.

E. Whenever final approval is given on the basis of an approved performance bond, letter of credit or escrow account, the following shall apply:

1. Installation of all remaining public improvements shall be completed to the satis-

faction of the town no later than 12 months from the date of such approval; and

2. The final plat shall contain a note listing the public improvements yet to be completed and stating:

a. That the improvements yet to be completed are the obligation of the land developer and that the town has approved a performance guarantee for these improvements, requiring the developer to complete installation no later than 12 months from the date of filing the plat; and

b. That the town will file a notice of completion of improvements with the county auditor's office within 21 days of the town's determination that the installation of all public improvements has been completed; and

c. That the town, the citizens thereof, and the purchasers of the lots in the approved subdivision shall have no financial liability with regard to installation of the remaining public improvements; and

d. That the town will not issue the owner of any lot within the subdivision any occupancy permits, temporary or permanent, until the notice of completion of improvements has been filed; and

e. That any sidewalk or streets listed as incomplete shall remain the private property of the developer until the notice of completion of improvements has been filed and that any dedication of the same to the public which may be contained on the face of the plat shall not become effective until the same are accepted by the town, as evidenced by the filing of the notice of completion of improvements; and

f. That any persons who purchase a lot within the plat shall, by accepting a deed to the same, be deemed to have waived any right to file a claim against the town for any property damage or personal injury which they may suffer as a result of using the uncompleted sidewalk areas and/or the unfinished streets prior to final completion and acceptance of the same by the town.

F. The developer shall be responsible for the maintenance and operation of all required public improvements for a period of 24 months following final plat approval by the town. The town engineer shall periodically reinspect the

public improvements during the maintenance period to ensure satisfactory performance.

The developer shall submit a maintenance bond acceptable to the town, equal in value to 15 percent of the total value of the required public improvements as certified by a professional engineer registered in the state of Washington. A performance bond or letter of credit, approved under subsection C of this section, may serve as the maintenance bond if it contains appropriate language to assure the developer's maintenance obligation under this subsection. In such cases, the amount of the bond or letter of credit may be reduced to the amount required by this subsection.

The developer shall obtain all available warranties and guarantees from the engineers, subcontractors, manufacturers, and/or suppliers of materials used in the public improvements and shall assign said warranties and guarantees to the town prior to the release of the maintenance bond. Within 60 days of the completion of all required public improvements, the developer shall provide the town with final certified as-built drawings.

If defects in the workmanship of the required public improvements are discovered within the maintenance period, the developer shall start work to remedy any such defects within seven days of notice by the town or of discovery by the developer. All work shall be completed within a reasonable time. In emergencies, where damage may result from delay or where loss of use may result, corrections may be made by the town and the full cost thereof shall be paid by the developer. If the developer does not commence and/or accomplish corrections within the time specified or agreed, then the work may be accomplished by the town and the full cost thereof shall be paid by the developer. (Ord. 1399 § 1, 2009; Ord. 1201 § 1, 2002; Ord. 1058 § 16, 1998)

#### **16.04.170 Vacation and alteration.**

Whenever any person is interested in the vacation of any plat or portion thereof, the town shall process such request in accordance with the provisions of RCW 58.17.212 and/or 58.17.215, as applicable; provided, however, that this section shall not apply to land platted

prior to October 14, 1971, the effective date of Ordinance No. 379. (Ord. 1270 § 1, 2005; Ord. 1058 § 17, 1998)

#### **16.04.180 Prohibition.**

No building permit, shoreline management permit, or other development permit shall be issued for any lots divided in violation of this chapter. The prohibition contained in this section shall not apply to an innocent purchaser for value without actual notice. All purchasers or transferees of property shall comply with the provisions of this chapter and each purchaser or transferee may recover his damages from any person, firm, corporation or agent selling, transferring or leasing land in violation of this chapter, including any amount reasonably spent as a result of inability to obtain any development permit and spent to conform to the requirements of this chapter as well as cost of investigation, suit, and reasonable attorney's fees occasioned thereby. Such purchaser, transferee or lessor may, as an alternative to conforming his property to these requirements, rescind the sale, transfer or lease and recover cost of investigation, suit, and reasonable attorney's fees occasioned thereby. Following preliminary approval, property may be offered for sale or lease prior to the approval and recording of the final plat as long as any offer or agreement for sale or lease shall expressly include a provision stating that the offer is subject to approval of the final plat and that installation or construction of all required improvements to the property, and review, approval and recording of the final plat shall be accomplished prior to completion of any sale or lease. (Ord. 1058 § 18, 1998)

#### **16.04.190 Injunctive remedy.**

Whenever any parcel of land is divided in violation of this chapter and any person, firm, corporation or agent sells, transfers or leases any such lot, tract or parcel without having a final plat recorded as required in this chapter, the town shall commence an action to restrain and enjoin further subdivisions or sales, transfers or leases, and compel compliance with all provisions of this chapter. The costs of such action shall be taxed against the person, firm,

corporation or agent selling, transferring or leasing property. In the enforcement of this chapter, the town may accept an assurance of discontinuance of any act or practice deemed in violation of this chapter from any person engaging in such act or practice. Any such assurance shall be in writing and shall be filed with and subject to the approval of the San Juan County superior court. The violation of such assurance shall constitute prima facie proof of a violation of this chapter. (Ord. 1058 § 19, 1998)

#### **16.04.200 Violation and enforcement.**

A. A violation of this chapter shall be and hereby is declared both a public nuisance and a Class 1 civil infraction, as defined in Chapter 1.18 FHMC. Each day that a violation of this chapter exists may be treated as a separate infraction.

B. Except in circumstances where there is a serious and imminent threat to public health or safety, prior to filing a public nuisance abatement action in San Juan County superior court, the town shall attempt to gain compliance by use of the civil infraction procedures set forth in Chapter 1.18 FHMC.

C. The penalty for committing a civil infraction under this chapter shall be as set forth in Chapter 1.18 FHMC. (Ord. 1058 § 20, 1998)

## Chapter 16.08

### SHORT SUBDIVISIONS

#### Sections:

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- 16.08.180 Prohibitions.
- 16.08.190 Injunctive remedy.
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#### **16.08.010 Purpose.**

The purposes of this chapter are:

A. To comply with Chapter 58.17 RCW, which mandates that towns adopt regulations, procedures, and appoint personnel for the approval of short subdivisions; and

B. To protect the public health, safety and general welfare by requiring that the division of land into two or more, but less than five, parcels proceeds in accordance with standards which will prevent the overcrowding of land; facilitate adequate provisions for water supplies, sewage, drainage ways, fire and police protection; provide adequate space, light and air; provide for proper ingress and egress; ensure convergence by accurate legal descriptions; and ensure that the general taxpaying public is not in the future required to incur development costs which are rightfully the responsibility of the subdivider. (Ord. 1059 § 1, 1998)

**16.08.020 Definitions.**

For the purposes of this chapter the terms set out in this section shall have the meanings indicated.

A. "Dedication" means the deliberate appropriation of land by an owner for any general and public use, reserving to the owner 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. Public dedication shall not be construed to include the deeding of additional rights-of-way for the purpose of widening existing town streets. The intention to dedicate shall be evidenced by the owner by the presentment for filing of a final short plat showing the dedication thereon and the acceptance by the public shall be evidenced by the approval of such short plat for filing by the town.

B. "Final short plat" means the final drawing of the short plat and dedication prepared for filing for record with the county auditor and containing all elements and requirements set forth in this chapter and state law.

C. "Lot" means a fractional part of short-platted lands, having fixed boundaries and being of sufficient area and dimension to meet minimum zoning requirements for width and area. The term shall include tracts and parcels.

D. "Lot depth" means the distance measured from the midpoint of the lot line fronting a road or street to the midpoint of the line opposite.

E. "Lot width" means the distance measured between the midpoints of the two principal side lot lines at approximately right angles to the lot depth.

F. "Preliminary short plat" means an initial drawing of a proposed short plat showing the general layout of streets and alleys, lots, blocks, and other elements of a proposed short plat, which shall be the basis for approval or disapproval of the general layout of a short plat.

G. "Replat" means a map or representation of a short plat that has been altered, vacated, or partially vacated.

H. "Short subdivision" means the division or redivision of land into four or fewer lots, tracts, parcels, sites or divisions for the pur-

pose of sale, lease, or transfer of ownership. (Ord. 1059 § 2, 1998)

**16.08.030 Applicability.**

Except under those circumstances set forth in RCW 58.17.040, every division of land within the town into four or less lots, parcels or tracts shall proceed in compliance with this chapter. (Ord. 1059 § 3, 1998)

**16.08.040 Application.**

The land use administrator is vested with the duty of administering the provisions of this chapter. Any person intending to divide land under this chapter shall submit a short plat application, which shall include a map and the following information:

A. The name of the proposed short subdivision;

B. The legal description of land contained within the short subdivision;

C. The names, addresses and telephone numbers of all persons, firms, and corporations holding interests in said land;

D. The name, address, telephone number and seal of the registered land surveyor who made, or under whose supervision was made, a survey of the proposed short subdivision;

E. The date of said survey;

F. The boundary lines of the proposed short subdivision;

G. The location of all existing monuments and markers;

H. The boundaries of all blocks and lots within the proposed short subdivision, together with the numbers proposed to be assigned each lot and block;

I. The location, names and width of all existing streets and easements within the proposed short subdivision and adjacent thereto;

J. The location and, where ascertainable, sizes of all permanent buildings, wells, water-courses, all bodies of water, all utilities, municipal boundaries, section lines, township lines, and other important features existing upon or under the land proposed to be short subdivided;

K. A layout of proposed streets, alleys, utility mains, and parcels;

L. A map of the general vicinity in which the land proposed for short subdivision lies, upon which are identified owners of land adjacent to the subdivision and the names of any adjacent subdivisions;

M. A copy of all restrictive covenants proposed to be imposed upon land within the subdivision;

N. The calculated area in square feet of all lots;

O. Space for approval by the town; and

P. A certificate signed by the county treasurer certifying that all taxes for one year in advance, on all the property in the proposed short subdivision, and all delinquent assessments for which the land within the short subdivision may have been liable have been duly paid, satisfied or discharged. Said certificate shall read as follows:

**TREASURER'S CERTIFICATE:** All taxes and assessments of the current year, \_\_\_\_\_, including advance taxes per RCW 58.08.040, for current year tax not yet levied or certified and any delinquent taxes or assessments which have become a lien upon the lands herein described have been fully paid and discharged according to the records of my office. If any penalty fees are due under the provisions of the Open Space or DFL Law (Chapters 84.33 and 84.34 RCW), this does not guarantee that they have been paid.

\_\_\_\_\_  
San Juan County Treasurer      Date  
(Ord. 1281 § 2, 2005; Ord. 1059 § 4, 1998)

#### **16.08.050 Resubdivision prohibition.**

Land divided under this chapter may not be further divided in any manner for a period of five years from the date of recording of the final short plat unless it is divided in accordance with the provisions of Chapter 16.04 FHMC, except that when the short plat contains fewer than four parcels, this section shall not prevent the owner or owners of any lot or lots within the boundaries of the original short plat from filing an application within the five-year period to create up to a total of four lots

within the boundaries of the original short plat, so long as the owners of all lots located within the boundaries of the original short plat shall provide written consent at the time of application. (Ord. 1059 § 5, 1998)

#### **16.08.060 Preliminary approval.**

A. A completed application shall be submitted to the land use administrator, accompanied by an original preliminary short plat and necessary fees. This application and preliminary short plat will be reviewed and approved or disapproved by the land use administrator, who shall determine if the proposed short plat meets the requirements of this chapter.

B. Whenever the property proposed for a short plat contains development that is connected to the town's water system or sewer system, or both, preliminary approval shall not be given until one of the following requirements is met:

1. All of the existing development will be located on only one of the proposed lots; or

2. Where the existing development will be on more than one of the proposed lots, the preliminary plat must indicate which one of the proposed lots being served by the town shall be entitled to continued water service through the existing connection and must also indicate that new approved water service connections for all other proposed lots then receiving town water services must be obtained as a condition of final approval. (Ord. 1311 § 1, 2006; Ord. 1059 § 6, 1998)

#### **16.08.070 Design – General.**

A. All streets, private roads, sidewalks, curbs, storm sewers, and related structures or devices shall be designed for construction in accordance with town standards in effect at the time of preliminary approval.

B. Land on which exists any topographical condition hazardous to the safety or general welfare of persons or property in or near a proposed short subdivision shall not be short subdivided unless the construction of protective improvements will eliminate the hazards, or not expose persons or property to the hazard. Protective improvements and restrictions on

use shall be clearly noted on the short plat. (Ord. 1059 § 7, 1998)

**16.08.080 Design – Minimum lot size.**

The minimum lot size for any lot short subdivided under this chapter shall be 9,000 square feet. (Ord. 1059 § 8, 1998)

**16.08.090 Design – Frontage.**

No lot shall have a width of less than 75 feet at the front or rear building site lines and every lot shall have at least 30 feet of frontage upon the public access. (Ord. 1059 § 9, 1998)

**16.08.100 Design – Setbacks.**

Every short plat shall provide upon its face a setback restriction that complies with the setback requirements of the zone within which the plat exists. (Ord. 1059 § 10, 1998)

**16.08.110 Design – Lot access.**

All lots shall be served by a public street or by an approved private road, as determined by the town. (Ord. 1146 § 2, 2000; Ord. 1059 § 11, 1998)

**16.08.120 Design – Public streets.**

Where a short subdivision abuts a public street having insufficient width to conform to current minimum design standards for town streets, dedication of sufficient additional rights-of-way to the town may be offered. (Ord. 1059 § 12, 1998)

**16.08.130 Design – Private roads.**

All private roads within a short subdivision shall comply with the following requirements:

A. Private roads shall include a cul-de-sac and shall have a minimum right-of-way easement of 30 feet, except for the area of the cul-de-sac, which shall be sufficient to accommodate a 25-foot radius. The road easement, including the cul-de-sac area, shall be set forth on the face of the plat;

B. The area of any lot burdened by the private road easement shall not be included within the calculation of lot area for purposes of minimum lot size under FHMC 16.08.080 or any other applicable town ordinance;

C. The short plat shall expressly set forth the terms of a private road maintenance agreement, binding upon all lots within the short plat, and shall state that construction, maintenance, and drainage of the private road shall not be the responsibility of the town; and

D. Prior to any new development on any lot accessed by a private road, the applicant for the development permit shall install a hard surface road to the new lot, with a minimum width of 20 feet. If the lot abuts a cul-de-sac within the short subdivision, the applicant shall also install a hard surface on it, with a minimum finished radius of 25 feet. (Ord. 1146 § 3, 4, 2000; Ord. 1059 § 13, 1998)

#### **16.08.140 Design – Easements.**

Easements for all utilities, public and private, shall be of sufficient width to assure maintenance and to permit future utility installations. (Ord. 1059 § 14, 1998)

#### **16.08.150 Final approval.**

A final short plat, conforming to all of the terms of the preliminary short plat approval, shall be furnished to the land use administrator for filing within one year of preliminary approval. All information set forth on the face of the final short plat shall also be furnished in such digital form as is required by the town. A final short plat shall not be deemed approved until filed with the county auditor. The subdivider shall bear all costs of such filing and reproduction of necessary copies. (Ord. 1059 § 15, 1998)

#### **16.08.160 Vacation and alteration.**

Whenever any person is interested in the vacation of any short plat or portion thereof, the town shall process such request in accordance with the provisions of RCW 58.17.212 and/or 58.17.215, as applicable; provided, however, that this section shall not apply to land platted prior to October 14, 1971, the effective date of Ordinance No. 379. (Ord. 1270 § 2, 2005; Ord. 1059 § 16, 1998)

#### **16.08.170 Appeals.**

Any person who deems himself/herself aggrieved by any decision, interpretation or action of the administrator may request a

review of that decision, interpretation or action of the administrator by the council. Such request must be made in writing to the administrator within 14 days after the date of the administrator's action. Said written request shall state clearly the basis for the appeal. Within seven days of receiving such a request, the administrator will forward to the council all pertinent documents required for the short subdivision application, the written request for review, and a written analysis of the issues involved in the appeal. The administrator shall send copies of the analysis to the applicant and the appellant. (Ord. 1059 § 17, 1998)

#### **16.08.180 Prohibitions.**

No building permit, shoreline management permit, or other development permit shall be issued for any lots divided in violation of this chapter. The prohibition contained in this section shall not apply to an innocent purchaser for value without actual notice. All purchasers or transferees of property shall comply with provisions of this chapter and each purchaser or transferee may recover his damages from any person, firm, corporation or agent selling, transferring or leasing land in violation of this chapter, including any amount reasonably spent as a result of inability to obtain any development permit and spent to conform to the requirements of this chapter as well as cost of investigation, suit, and reasonable attorney's fees occasioned thereby. Such purchaser, transferee or lessor may, as an alternative to conforming his property to these requirements, rescind the sale, transfer or lease and recover cost of investigation, suit, and reasonable attorney's fees occasioned thereby. Following preliminary approval, property may be offered for sale or lease prior to the approval and recording of the final short plat as long as any offer or agreement for sale or lease shall expressly include a provision stating that the offer is subject to approval of the final short plat and that installation or construction of all required improvements to the property, and review, approval and recording of the final short plat shall be accomplished prior to completion of any sale or lease. (Ord. 1059 § 18, 1998)

**16.08.190 Injunctive remedy.**

Whenever any parcel of land is divided in violation of this chapter and any person, firm, corporation, or agent sells, transfers or leases any such lot, tract or parcel without having a final short plat recorded as required herein, the town shall commence an action to restrain and enjoin further subdivisions or sales, transfers or leases, and compel compliance with all provisions of this chapter. The costs of such action shall be taxed against the person, firm, corporation or agent selling, transferring or leasing property. In the enforcement of this chapter, the town may accept an assurance of discontinuance of any act or practice deemed in violation of this chapter from any person engaging in such act or practice. Any such assurance shall be in writing and shall be filed with and subject to the approval of the San Juan County superior court. The violation of such assurance shall constitute prima facie proof of a violation of this chapter. (Ord. 1059 § 19, 1998)

**16.08.200 Violation and enforcement.**

A. A violation of this chapter shall be and hereby is declared both a public nuisance and a Class 1 civil infraction, as defined in Chapter 1.18 FHMC. Each day that a violation of this chapter exists may be treated as a separate infraction.

B. Except in circumstances where there is a serious and imminent threat to public health or safety, prior to filing a public nuisance abatement action in San Juan County superior court, the town shall attempt to gain compliance by use of the civil infraction procedures set forth in Chapter 1.18 FHMC.

C. The penalty for committing a civil infraction under this chapter shall be as set forth in Chapter 1.18 FHMC. (Ord. 1059 § 20, 1998)

**Chapter 16.12****REPLAT APPLICATION FEE**

(Repealed by Ord. 1030)

## Chapter 16.16

### BOUNDARY LINE ADJUSTMENTS

Sections:

- 16.16.010 Purpose.
- 16.16.020 Approval – Required.
- 16.16.030 Application.
- 16.16.040 Preliminary approval.
- 16.16.050 Final approval.
- 16.16.060 Prohibitions generally – Protection of innocent purchaser.
- 16.16.070 Injunctive relief.
- 16.16.080 Violation and enforcement.

#### 16.16.010 Purpose.

The purpose of this chapter is to regulate the removal or adjustment of boundary lines between property. (Ord. 1055 § 1, 1998)

#### 16.16.020 Approval – Required.

It is unlawful for the owner or owners of abutting lots to remove or adjust (hereinafter “change”) the location of all or any portion of any boundary line common to such lots without first having applied for and received approval for such change, in accordance with the provisions of this chapter. If any one or more of the lots to be affected by the proposed change are located within an area that was platted prior to October 14, 1971, the effective date of Ordinance No. 379, the provisions of this chapter shall be used in lieu of the plat alteration procedures set forth in Chapters 16.04 and 16.08 FHMC. (Ord. 1270 § 3, 2005; Ord. 1055 § 2, 1998)

#### 16.16.030 Application.

A. The land use administrator is vested with the duty of administering the provisions of this chapter.

B. Any person or persons who desire to change the boundary line between lots shall complete and submit to the land use administrator the appropriate application form supplied for such purpose. The application shall be signed by all persons in whom fee title to any affected lot is vested, and also by all persons who have a contract vendor’s interest in

any of such lots, or who have a mortgage or deed of trust against such lots.

C. Each person who signs an application shall be deemed to have undertaken an obligation to hold harmless and defend the town against any claim by any persons alleging to have owned, at the time the application is acted upon by the town, an interest in any of the affected lots, which interest is alleged to have been adversely affected by the town’s action upon such application. The land use administrator may, in his discretion, require the applicant to provide a current chain of title guarantee from a title insurance company with respect to any such lot.

D. Each application shall include a map and related data containing the following information:

1. The existing boundary lines and size, in square feet, of all of the lots affected by the proposed change;
2. The names and addresses of all persons owning an interest in any of said lots;
3. The location and size of all existing buildings, building setbacks, rights-of-way, easements, wells, watercourses, high and low water marks, municipal boundaries, section lines, township lines, abutting streets or roads (private or public), utility services, driveways and any other improvement located upon any of said lots;
4. The location of the proposed new boundary line(s), with clear and specific reference to each of the items contained in subsection (D)(3) of this section;
5. The size, in square feet, of each of the lots that would result from the proposed change;
6. Space for approval by the town; and
7. A certificate signed by the county treasurer certifying that all taxes for one year in advance, on all the property affected by the proposed boundary line adjustment, and all delinquent assessments for which the land within the boundary line adjustment may have been liable have been duly paid, satisfied or discharged. Said certificate shall read as follows:

TREASURER'S CERTIFICATE: All taxes and assessments of the current year, \_\_\_\_\_, including advance taxes per RCW 58.08.040, for current year tax not yet levied or certified and any delinquent taxes or assessments which have become a lien upon the lands herein described have been fully paid and discharged according to the records of my office. If any penalty fees are due under the provisions of the Open Space or DFL Law (Chapters 84.33 and 84.34 RCW), this does not guarantee that they have been paid.

\_\_\_\_\_  
San Juan County Treasurer      Date

E. The nonrefundable application fees for all land use permit applications governed by this chapter shall be reviewed annually by the town council, who shall direct the town clerk to adjust the fee appropriately and post such list of land use permit application fees in a conspicuous place within Town Hall and make such list available to the public upon request. (Ord. 1282 § 2, 2005; Ord. 1055 § 3, 1998)

#### **16.16.040 Preliminary approval.**

A. Upon receipt of a completed application and the applicable fee, the land use administrator shall review the same and shall provide written notice of disapproval, conditional preliminary approval, or preliminary approval to the applicant within 10 business days from receipt of same. Preliminary approval shall be given only if all the following conditions are met:

1. No lot to result from the proposed change shall be smaller than the minimum lot size required by any applicable subdivision and/or zoning ordinances in effect at the time the application is filed, except as follows: whenever any one or more lots involved in the proposed change are smaller than the allowable minimum size, the change may be approved so long as no resulting lot is smaller than the smallest of the existing lots;

2. The maximum lot coverage requirements and the minimum yard setback requirements of any applicable subdivision and/or

zoning ordinances shall be met by all lots to result from the proposed change and by all buildings then existing on said lots;

3. The access and parking requirements of any applicable subdivision and/or zoning ordinances shall be met with respect to all lots to result from the proposed change;

4. The resulting lots will, for all other purposes, continue to meet all requirements of all applicable subdivision, zoning and other ordinances; and

5. No public utility then serving any of the lots to be affected shall become severed from the benefited lot.

B. In the event any of the above conditions is not met, conditional preliminary approval may nevertheless be given on the condition that final administrative approval shall be given only if the application is modified in such a manner as to meet all of said conditions. (Ord. 1282 § 3, 2005; Ord. 1055 § 4, 1998)

#### **16.16.050 Final approval.**

A. Subsequent to the granting of preliminary approval or conditional preliminary approval, the applicant shall be granted final administrative approval upon presentation to the land use administrator of the following items:

1. In the event conditional preliminary approval was granted, a modified application wherein all of the conditions of subsection A of this section are met;

2. Copies of the proposed conveyance documents;

3. A plat of all affected lots, to be prepared in accordance with the same standards as are required by this title, depicting the new boundary lines in accordance with the preliminary or conditional approval previously granted; and

4. Satisfactory proof that lot corners have been in fact monumented, in accordance with applicable standards set forth in state and/or local law.

B. Final approval shall not be deemed given until the plat map and all conveyance documents, consistent with the requirements of this chapter, shall have been filed for record with the San Juan County auditor and recorded

copies thereof delivered to the land use administrator. (Ord. 1282 § 4, 2005; Ord. 1270 § 4, 2005; Ord. 1055 § 5, 1998)

**16.16.060 Prohibitions generally –  
Protection of innocent  
purchaser.**

A. No building permit, substantial development permit, or other development permit shall be issued for any lots as to which the boundary line has been changed in violation of this chapter.

B. The prohibition contained in this section shall not apply to any innocent purchaser for value without actual notice. All purchasers or transferees of property shall comply with the provisions of this chapter, and each purchaser or transferee may recover his damages from any person, firm, corporation, or agent selling, transferring or leasing land in violation of this chapter, including any amount reasonably spent as a result of inability to obtain any development permit and spent to conform to the requirements of said sections, as well as the cost of the investigation, suit, and reasonable attorney's fees occasioned thereby. Such purchaser, transferee or lessee may, as an alternative to conforming his property to these requirements, rescind the sale, transfer or lease and recover the cost of investigation, suit, and reasonable attorney's fees occasioned thereby. (Ord. 1055 § 6, 1998)

**16.16.070 Injunctive relief.**

Whenever a boundary line is changed in violation of this chapter, the town may commence an action to restrain and enjoin any sales, transfers, or leases of all affected lots, and to compel compliance with all the provisions of said sections. The costs of such action shall be taxed against the person having caused the adjustment to have been made. (Ord. 1055 § 7, 1998)

**16.16.080 Violation and enforcement.**

A. A violation of this chapter shall be and hereby is declared both a public nuisance and a Class 1 civil infraction, as defined in Chapter 1.18 FHMC. Each day that a violation of this

chapter exists may be treated as a separate infraction.

B. Except in circumstances where there is a serious and imminent threat to public health or safety, prior to filing a public nuisance abatement action in San Juan County superior court, the town shall attempt to gain compliance by use of the civil infraction procedures set forth in Chapter 1.18 FHMC.

C. The penalty for committing a civil infraction under this chapter shall be as set forth in Chapter 1.18 FHMC. (Ord. 1055 § 8, 1998)