

DIVISION II. PLATS

Chapter 17.12

SHORT PLATS

Sections:

- 17.12.010 Applicability.
- 17.12.020 Exemptions.
- 17.12.030 Administrator.
- 17.12.040 Application.
- 17.12.050 Plat map.
- 17.12.060 Administrative review.
- 17.12.070 Roads and rights-of-way.
- 17.12.080 Approval and filing.
- 17.12.090 Appeal procedure.
- 17.12.100 Fees.
- 17.12.110 Approval required before transactions permitted.
- 17.12.120 Resubdivision procedures.
- 17.12.130 Park fees.
- 17.12.140 Impact Fee Deferral Program.

17.12.010 **Applicability.** Every division of land in an agricultural, agricultural suburban, or residential zoning for the purpose of lease or sale into two or more, but not more than a total of four lots, must comply with this chapter. (Ord. 602, August 1994.)

17.12.020 **Exemptions.** The provisions of this chapter shall not apply to:

- A. Cemeteries and other burial plots while used for that purpose.
- B. Divisions of land into lots or tracts each of which is one hundred twenty eighth of a section of land or larger, or five acres or larger if the land is not capable of description as a fraction of a section of land, unless the city has adopted a subdivision ordinance requiring plat approval of such divisions.

Provided, That for purposes of computing the size of any lot under this item which borders on a street or road, the lot size shall be expanded to include that area in which would be bounded by the center line of the road or street and the side lot lines of the lot running perpendicular to such center line.

- C. Divisions made by testamentary provisions, or the laws of descent.
- D. Divisions of land into lots or tracts classified for industrial or commercial when the city has approved a binding site plan.

- E. A division for the purpose of lease when no residential structure other than mobile homes or travel trailers are permitted to be placed upon the land when the city has approved a binding site plan for the use of the land.
- F. A division made for the purpose of alteration by adjusting boundary lines, between platted or un-platted lots or both, which does not create any additional lot, tract, parcel, site or division nor create any lot, tract, parcel, site or division which contains insufficient area and dimensions to meet minimum requirements for width and area for a building site.
- G. Divisions of land into lots or tracts if:
 - 1. Such division is the result of subjecting a portion of a parcel or tract of land to either chapter 64.32 or 64.34 RCW subsequent to the recording of a binding site plan for all such land;
 - 2. The improvements constructed or to be constructed thereon are required by the provisions of the binding site plan to be included in one or more condominiums or owned by an association or other legal entity in which the owners of units therein or their owners' associations have a membership or other legal or beneficial interest;
 - 3. The city has approved the binding site plan for all such land;
 - 4. Such approved binding site plan is recorded in the county in which such land is located; and
 - 5. The binding site plan contains thereon the following statement: 'All development and use of the land described herein shall be in accordance with this binding site plan, as it may be amended with the approval of the city and in accordance with such other governmental permits, approvals, regulations, requirements, and restrictions that may be imposed upon such land and the development and use thereof. Upon completion, the improvements on the land shall be included in one or more condominiums or owned by an association or other legal entity in which the owners of units therein or their owners' associations have a membership or other legal or beneficial interest. This binding site plan shall be binding upon all now or hereafter having any interest in the land described herein.' The binding site plan may, but need not, depict or describe the boundaries of the lots or tracts resulting from subjecting a portion of the land to either chapter 64.32 or 64.34 RCW.

A site plan shall be deemed to have been approved if the site plan was approved by the city:

- a. In connection with the final approval of a subdivision plat or planned unit development with respect to all of such land; or

- b. In connection with the issuance of building permits or final certificates of occupancy with respect to all of such land; or
- c. If not approved pursuant to (a) and (b) of this subsection G5, then pursuant to such other procedures as the city may have established for approval of a binding site plan. (Ord. 602, August 1994.)

17.12.030 **Administrator.** The mayor or his designated representative, hereafter referred to as the administrator, is vested with the responsibility of administration of the short plat provisions of this chapter with authority to summarily approve or disapprove short plats. The administrator shall initiate such procedures and/or forms, request such additional information as deemed necessary and adopt reasonable rules and regulations for the implementation of this chapter. (Ord. 602, August 1994.)

17.12.040 **Application.** All short plat sub-dividers shall submit a signed application for a short subdivision consisting of the following:

- A. An application form to be completed and signed by the subdivider (the form shall be supplied by the administrator).
- B. Five copies and one reproducible copy of a short plat map prepared in accord with Section 17.12.050.
- C. A title report showing the name of anyone holding an interest in the real property being subdivided.
- D. Filing fees and costs as required by Section 17.12.100. (Ord. 602, August 1994.)

17.12.050 **Plat map.** A plat map submitted for short subdivisions shall be drawn in ink on material approved by the County Auditor, sheet size eighteen inches by twenty-four inches to a scale not to exceed one inch equals one hundred feet, unless a different scale has been specifically approved by the administrator. The plat map shall be of the entire contiguous tract owned by the applicant and for which a tax statement is received. The plat map shall show the following:

- A. Name of the property owners and boundaries of existing subdivision lots for property abutting the proposed short subdivision.
- B. Boundaries of each lot and of the total subdivision, together with a description of monuments set.
- C. Legal description of the boundary for the short subdivision.
- D. Location of existing roads, utilities, easements or rights-of-way or other important features adjacent to and within the proposed short plat.
- E. Location of any roads, utilities, easements or rights-of-way proposed for the short plat.

- F. Notarized signatures of all parties having an interest in the land agreeing to the division of the property and the dedication of any rights-of-way or easements involved.
- G. Delineation of one hundred-year floodplains when present.
- H. Approval certificates as shown below:

LAND SURVEYOR'S CERTIFICATE

I, _____ a registered land surveyor hereby certify the short plat as shown hereon is based on an actual field survey of that land described and that all corners and dimensions are correctly shown and that said short plat is staked on the grounds as indicated hereon.

Signature Date

TREASURER'S CERTIFICATE

I hereby certify that the taxes on the land described hereon have been paid to and including the year _____.

Benton County Treasurer Date

IRRIGATION DISTRICT CERTIFICATE

The irrigation assessments of the land described hereon are paid through the year _____AD, and the irrigation right-of-way and easements as shown are hereby approved.

Signature Date

PUBLIC UTILITY DISTRICT CERTIFICATE

The utility easements are hereby approved by the Benton County Public Utility District or the Benton Rural Electric Association.

Signature Date

Title

GENERAL TELEPHONE

The utility easements are hereby approved by the General Telephone Company.

Signature Date

Title

CABLE TELEVISION

The utility easements are hereby approved by the Cable Television Company.

Signature Date

Title

I. A vicinity map. (Ord. 954, 2016; Ord. 398 S1 (part), 1981).

17.12.060

Administrative Review. Upon receipt of a completed application for short plat, the administrator shall distribute copies of the information to the city engineer. In addition, copies may be distributed to any parties, departments, or agencies deemed necessary for its proper review. The administrator, with the assistance of other reviewing agencies, shall inquire to the public use and interest proposed to be served by the establishment of the short plat and make written findings that:

- A. Appropriate provisions are made for the public health, safety, general welfare, fire protection and other necessary services, and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary waste, parks and recreation, play grounds, schools and play grounds and all other relevant facts, including walk-ways and other planning features that assure safe walking conditions for students who only walk to and from school.
- B. The proposed lots conform to the comprehensive and the zoning ordinance.
- C. That any short plat lying in whole or in part within any irrigation district, classified as irrigable, shall provide an irrigation water right-of-way for each parcel and a completed irrigation water distribution facility available for the distribution of irrigation water to said short plat and all applicable irrigation assessments have been paid and that adequate utility easements have been provided.
- D. Where the dedication of land to any public body, provision of public improvements to serve the short plat and/or impact fees imposed by law may be required as condition of the subdivision approval, which dedication shall be clearly shown upon the final plat. No dedication, provision of public improvements or impact fees imposed by law shall be allowed that constitute an unconstitutional taking of private property.
- E. The public use and interest will be served by permitting the proposed division of the property.
- F. All provisions of Title 20 (Zoning), or other land use controls which may exist, have been complied with. (Ord. 602, August 1994.)

17.12.070

Roads and Rights-of-Way. The city engineer will review each short plat to determine if there is or may be a need for public access through or abutting a proposed short subdivision. If such a need does or may exist, the city engineer may recommend that any approval of the short plat be conditioned upon the dedication of a right-of-way and the construction of needed streets to city standards. If the proposed short plat abuts an existing right-of-way, the city engineer may recommend that an additional right-of-way be dedicated to obtain one-half of the required width of the

street as established by the city street plan and that the right-of-way be improved to city standards. Written notice of the filing of a proposed short plat located adjacent to the right-of-way of an existing or proposed state or federal highway must be given to the state department of transportation and shall include a legal description of the short plat and a location map. (Ord. 602, August 1994.)

17.12.080 **Approval and Filing.**

- A. Within sixty (60) days of the receipt of an application, the administrator will notify the applicant of approval, conditional approval or denial of the application. The reasons for denial must be given in writing.
- B. If the application is either approved or conditionally approved, the applicant must satisfy all conditions and submit the original short plat map to the administrator for final approval. The applicant shall record the original short plat map with the Benton County Auditor. The short subdivision is not a legal subdivision and lots may not be sold until it is recorded with the Benton County Auditor. (Ord. 602, August 1994.)

17.12.090 **Appeal Procedure.** Any person aggrieved by the decision of the administrator to approve or disapprove of a proposed short plat may appeal the decision to the city council within ten (10) days following the issuance of the decision. The city council may affirm or reverse the administrator's decision or may remand the application to the administrator with instructions to approve the same upon compliance of the conditions imposed by the council.

Any person aggrieved by the decision of the council may, within fourteen (14) days thereof, appeal to the Benton County Superior Court for such relief as he may be entitled. (Ord. 602, August 1994.)

17.12.100 **Fees.**

- A. Fees shall be collected from the applicant to compensate the city for reviewing short subdivision applications. Such fees shall include the following:
 - 1. Initial Application Review Fee. Initial application review includes application intake, field investigations, preparation of reports and conditions of approval, administrative costs of file set up, maintenance and public notification. The initial application review fee shall be collected at the time the application is submitted.
 - 2. Engineering Plan Review Fee. An engineering plan review shall include engineering plan screening and intake, review of engineering plan for consistency with adopted design standards, guidelines, and conditions of approval and administrative support.
 - 3. Re-submittal Fees. An additional fee shall be charged for corrections or additions to the original plan that require additional

city staff review after the initial review. The re-submittal fees shall consist of a base handling fee and an hourly review fee. The base handling portion of the re-submittal fee shall be collected upon plan re-submittal. There shall be an additional base handling re-submittal fee for each re-submittal. The hourly portion of the re-submittal fees shall be collected at the completion of each re-submittal review and prior to approval of the re-submittal. The hourly review portion of the re-submittal fees shall include all engineering, legal, administrative and staff review time.

4. The applicant shall assume all costs of required publication;
5. The applicant shall assume all costs required by the recording of the approved short plat.

B. The fees provided above shall be included in the fee schedule established by the Mayor and approved by the City Council. (Ord. 602, August 1994.)

17.12.110 **Approval required before transactions permitted.** No person shall transfer, sell, lease, or offer for transfer, sale or lease any land subject to the requirements of short plat approval until a short plat has been approved and filed with the Benton County auditor. (Ord. 398 S1 (part), 1981.)

17.12.120 **Resubdivision Procedures.** Land within a short subdivision may not be further divided in any manner within a period of five (5) years without the filing of a final plat, except that when the short plat contains fewer than four (4) parcels. Nothing herein shall prevent the owner who filed the short plat from filing an alteration within the five year period to create up to a total of four (4) lots within the original short plat boundaries. Property considered to be within a short subdivision are all lots which are recorded with a short subdivision and with lot numbers, including all such lots that are less than twenty (20) acres in area. Alteration of a short subdivision shall be in accordance with the procedures established by RCW 58.17.215. (Ord. 602, August 1994.)

17.12.130 **Park fees.** The city, as a condition of approval of any short plat that will be used for residential purposes, shall require the payment of fees for park purposes. The requirement for payment of fees shall be based on the following:

- A. That the fees will assist in serving the parks and recreational needs of the residents within the proposed plats.
- B. That the amount of fees to be paid shall bear a reasonable relationship to the use of the open area and recreational facilities by the future inhabitants of the subdivision.
- C. That the fees to be paid shall be paid into the public park and recreation improvement fund to be used for the purchase of park land or recreational

facilities, or for the development or improvement of existing park land or recreational facilities.

- D. That no payment of fees shall be dependent upon the exclusive use of the open area and its facilities by future inhabitants of the subdivision for which the fees were required.
- E. Fees shall be assessed at the rate per square foot of the short plat set by the most current resolution entitled "City Fee Schedule". (Ord. 623, April 1995.)

17.12.140 **Impact Fee Deferral Program.** Each applicant for a single-family attached or detached residential construction permit, in accordance with his or her contractor registration number or other unique identification number, is entitled to annually receive deferrals of any impact fees required in BCMC 17.12.130 or any other impact fees imposed, for the first twenty single-family residential construction building permits applied for with the City of Benton City, in accordance with the following provisions of this section.

- A. Deferred collection of the impact fee payment shall be until the time of the issuance of the certificate of occupancy or equivalent certification, provided that the deferral may not be greater than eighteen (18) months from the issuance date of the applicable building permit.
- B. Unless an agreement to the contrary is reached between the buyer and the seller, the payment of impact fees due at closing of a sale must be made from the seller's proceeds. In the absence of an agreement to the contrary, the seller bears strict liability for the payment of the impact fees.
- C. The amount of impact fees deferred under this section must be determined by the fees in effect at the time of the applicant applies for a deferral.
- D. An applicant seeking a deferral under this section must grant and record a deferred impact fee lien against the property in favor of the City of Benton City in the amount of the deferred impact fee. The deferred impact fee lien must comply with the following:
 - 1. Include the legal description, tax account number, and address of the property.
 - 2. Must be in a form approved by the City of Benton City.
 - 3. Must be signed by all owners of the property, with all signatures acknowledged as required for a deed, and recorded with the Benton County Auditor's Office.
 - 4. Must be binding on all successors in title after the recordation.
 - 5. Must be junior and subordinate to one mortgage for the purpose of construction upon the same real property granted by the person who applied for the deferral of impact fees.

- E. If impact fees are not paid in accordance with a deferral authorized by this section and in accordance with the term provisions of this section the City of Benton City may institute foreclosure proceedings in accordance with the Revised Code of Washington Chapter 61.12.
- F. If the City of Benton City does not institute foreclosure proceedings for unpaid school impact fees within forty-five (45) days after receiving notice from a school district requesting that it do so, the district may institute foreclosure proceedings with respect to the unpaid school impact fees.
- G. Upon receipt of final payment in full of all deferred impact fees for a property, the City of Benton City shall execute a release of deferred impact fee lien for the property. The property owner at the time of the release, at his or her expense, is responsible for recording the lien release.
- H. The extinguishment of a deferred impact fee lien by the foreclosure of a lien having priority does not affect the obligation to pay the impact fees at the time of closing of the first sale.
- I. The City of Benton City shall have the authority at its discretion, but is not required, to defer more than twenty (20) single-family residential construction building permits for an applicant. If the City of Benton City at any time collects impact fees on behalf of one or more school districts for which the collection of impact fees could be delayed, the City must consult with the district or districts about the additional deferrals. The City must give additional weight to recommendations of each applicable school district regarding the number of deferrals. If the City disagrees with the recommendations of one or more school districts, the City must provide the district or districts with a written rationale for its decision.
- J. The City of Benton City may collect reasonable administrative fees to implement this section from permit applicants who are seeking to delay the payment of impact fees under this section.
- K. For purposes of this section, an “applicant” includes an entity that controls the applicant, is controlled by the applicant, or is under the common control with the applicant. (Ord, 957, July 2016)