



# City of Bainbridge Island

## **City Council Draft**

### **Title 17: Subdivisions and Boundary Line Adjustments**



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## 17.04 PURPOSE AND GENERAL PROVISIONS

### **17.04.010 PURPOSE**

- A. The purpose of this Title is to regulate the division of land into short subdivisions, long subdivisions, and large lot subdivisions to promote the public health, safety and general welfare of the citizens of the city in accordance with state law and the city's comprehensive plan. To carry out this purpose and further the comprehensive plan policies addressing residential subdivision of land, this Title establishes a flexible lot process for short and long subdivisions that promotes the preservation and consolidation of open space and clustering of development within residential subdivisions. This process facilitates the fair and predictable division of land, maintains the current character of the city, encourages efficient and cost-effective provisions for infrastructure, limits the development impact area, minimizes impervious surface area and provides for greater flexibility in the division and establishment of residential lots.
- B. A further purpose of this Title 17 is to:
- Prevent the overcrowding of land;
  - Lessen congestion in the streets and highways;
  - Provide for adequate light and air;
  - Facilitate adequate provision for water, sewage, storm water drainage, parks and recreation areas, sites for schools and school grounds and other public requirements;
  - Provide for proper ingress and egress;
  - Provide a variety of housing opportunities; and
  - Maintain the quality of life of the city.
- C. Through this Title, the City will also allow for the subdivision of land for nonresidential, multifamily, and mixed use, and accomplish uniform monumenting of land divisions and conveyance by accurate legal description.
- D. An additional purpose of this Title is to provide criteria for summary administrative approval of boundary line adjustments that satisfy public concerns of health, safety and welfare, or where arranging or rectifying boundary lines is otherwise requested.
- E. A final purpose of this Title is to comply with the provisions of RCW Title 58 (Boundaries and Plats) or its successors, and other applicable law of Washington State, and no provision of this Title shall be interpreted to authorize or require

actions inconsistent with those laws.<sup>1</sup> (Ord. 2003–49 § 1, 2004: Ord. 96–06B § 1, 1996) (Ord. 2003–02 § 12, 2003: Ord. 96–06B § 3, 1996)<sup>2</sup>

## **17.04.020 GENERAL PROVISIONS<sup>3</sup>**

### **A. Location of Substantive Standards**

This Title 17 sets forth substantive standards for the layout and design of short, long, large lot, nonresidential, and multi-family subdivisions. All such divisions of land must also comply with substantive standards in Titles 15 (Buildings), 16 (Environment), and 18 (Zoning) unless the standards in those Titles have been explicitly modified or waived.

### **B. Location of Review and Approval Procedures**

The procedures for approval of short, long, large lot, nonresidential and multifamily subdivisions, as well as the vesting of rights related to those types of approvals, are set forth in Title 2 (Administration and Personnel). All such provisions require consistency with the requirements of RCW Title 58 (Boundaries and Plats) or its successors as applicable to the type of land division being proposed.<sup>4</sup>

### **C. Compliance with RCW Title 58**

#### **1. General**

- a. Every long, large lot, nonresidential or multifamily subdivision shall comply with the provisions of RCW Title 58. Every short subdivision as defined in RCW 58 shall comply with the provisions of the Bainbridge Island subdivision regulations, which have been adopted pursuant to RCW 58.17.060. A proposed division of land, as defined in RCW 58.17.020, shall be considered under the subdivision or short subdivision ordinance, and zoning or other land use control ordinances, in effect on the land at the time a fully

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<sup>1</sup> The last sentence of this purpose statement is new.

<sup>2</sup> These materials are carried over from current code sections 17.04.020, 17.12.020, and 17.16.020. Where there were minor differences between the text applicable to subdivisions, short subdivisions, and large lots, those differences have been reconciled in favor of more general language applicable to all three types of divisions (as well as commercial, multifamily, and mixed use subdivisions).

<sup>3</sup> This section has been revised to clarify that it applies to all forms of subdivision.

<sup>4</sup> This reference to state law was added.

completed application for preliminary plat approval of the subdivision, or short plat approval of the short subdivision, has been submitted to the City.

- b. For purposes of compliance with RCW Title 58 (Boundaries and Plats) or its successors, the Bainbridge Island subdivision regulations shall consist of this Title 17, as well as applicable substantive standards in Titles 15 (Buildings), 16 (Environment), and 18 (Zoning), applicable procedures set forth in Title 2 (Administration and Personnel), and related local regulations or ordinances adopted in accordance with state law. Large lot subdivision and multifamily or nonresidential subdivisions are forms of subdivision regulated pursuant to RCW 58.17.040(2) or its successors, and shall be subject to the requirements of RCW Title 58 applicable to subdivisions, as modified by any applicable provisions of BIMC.<sup>5</sup>
- c. The limitations imposed by this section shall not restrict conditions imposed under Chapter 43.21.C RCW.

## 2. Specific Provisions<sup>6</sup>

Without limiting the generality of subsection 1, the Bainbridge Island subdivision regulations and all applications for short, long, large lot, nonresidential and multifamily subdivisions pursuant to those regulations shall be consistent with the following provisions of RCW 58.17.033, RCW 58.27.060, and RCW 58.17.140 regarding requirements for application, approval, and time limitation and extension.

### D. Limitations on Dedications and Fees

Pursuant to RCW 58.17.110(2) or its successors, dedication of land, provision of public improvements to serve the subdivision, and/or impact fees imposed under RCW 82.02.050 through 82.02.090 or their successors may be required as a condition of subdivision approval. No dedication, provision of public improvements, or impact fees imposed under RCW 82.02.050 through 82.02.090 or their successors shall be allowed that constitutes an unconstitutional taking of private property. The legislative body shall not as a condition to the approval of any subdivision require a release from damages to be procured from other property owners.<sup>7</sup>

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<sup>5</sup> This is a new paragraph just to confirm that subdivisions must comply with RCW (per RCW 58.17.030) and the typical subdivision content does not appear in one place in the revised code.

<sup>6</sup> These new provisions recite several key provisions of RCW in order to confirm the city's intent to conduct subdivision review and approval consistent with those provisions.

<sup>7</sup> A cross-reference to state law limits on exactions has been added.

### **E. Application Materials**

Materials required to be submitted with an application for a short or long subdivision, subdivision, large lot subdivision, nonresidential or multifamily subdivision or boundary line adjustment have been adopted by ordinance, as required by RCW 58.17.033 or its successors, and may be amended by ordinance, but are not included in this Title 17. Adopted lists of application materials are available in the Bainbridge Island Administrative Manual.

### **F. Interpretation**

This Title 17 shall be liberally interpreted and construed to secure the public health, safety, morals, welfare, to implement the Bainbridge Island Comprehensive Plan, and to comply with all applicable requirements of Washington state law, and the rule of strict construction shall have no application. (Ord. 96-06B § 1, 1996)<sup>8</sup>

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<sup>8</sup> This clause is carried over from current code sections 17.04.170, 17.12.260, and 17.16.340, but broadened to include references to the Comp Plan and applicable law.

## 17.08 APPLICABILITY<sup>9</sup>

### **17.08.010 APPLICABILITY**

Unless excluded by BIMC 17.08.020, all short, long, large lot, nonresidential and multifamily subdivisions, as defined in BIMC 17.28, shall comply with this Title. (Ord. 96-06B § 1, 1996)

### **17.08.020 EXCLUSIONS**

This Title 17 shall not apply to:

- A. Cemeteries and other burial plots while used for that purpose;
- B. Divisions made by testamentary provisions, or the laws of descent, as defined in 17.28;
- C. Divisions of land into lots or tracts classified for industrial or commercial use when the city has approved a binding site plan for the use of the land in accordance with city ordinance;
- D. A division for the purpose of lease when no residential structure other than mobile homes or travel trailers is permitted to be placed upon the land when the city has approved a binding site plan for the use of the land in accordance with city ordinance;
- E. Divisions of land into lots or tracts if:
  1. The improvements constructed or to be constructed on the lot or tract will be included in one or more condominiums or are owned by an association or other legal entity in which the owners of units or their owners' associations have a membership or other legal or beneficial interest; or
  2. The city has approved a binding site plan for all such land and the binding site plan contains the following statement: "All development of the land described in this site plan shall be in accordance with the binding site plan, as it may be amended. 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 or their owners' association have a membership or other legal or beneficial interest".

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<sup>9</sup> These materials are carried over from current code sections 17.04.010 and 030, 17.12.010 and 030, and sections 17.16.010 and 030, but the wording was revised to confirm that it applies to all forms of subdivision.

- F. A division (1) caused by condemnation or by acquisition by a government entity in lieu of condemnation, or (2) otherwise resulting from a transfer of land to a government entity for open space, park, public vehicular access, public pedestrian access, utility, or right-of-way purposes, or to a private utility regulated by the State Utilities and Transportation Commission for utility improvement purposes.
- G. Any division of land that is exempted from the scope of RCW 58 or its successors.<sup>10</sup>
- H. Short subdivisions shall not be used, either by a person alone or by persons acting together, at one time or over a period of time, as a means to circumvent compliance with the more stringent subdivision requirements that control the subdivision of land into five or more lots. When an application for a short subdivision is filed within five years after the approval of a short subdivision on a contiguous land parcel, a presumption of an attempt to circumvent short subdivision requirements may be invoked by the director as a basis for further investigation to assure compliance with the intent of this provision. (Ord. 96-06B § 2,1996)

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<sup>10</sup> This is a new catchall provision to cover future amendments in state subdivision authority.

# 17.12 SUBDIVISION DESIGN STANDARDS<sup>11</sup>

## 17.12.010 APPLICABILITY

This section sets forth standards for (1) short subdivisions, (2) long subdivisions, (3) large lot subdivisions, and (4) nonresidential and multifamily subdivisions. These requirements are summarized in Table 17.12.-1 below. Procedures for Boundary Line Adjustments are set forth in BIMC Title 2.

Subdivision Standards  Type of Subdivision	Open Space Flexible Lot Standards (Section 17.12.030.A)	Cluster Flexible Lot Standards (Section 17.12.030.B)	General Subdivision Standards (Section 17.12.040)	Multifamily and Nonresidential Standards (Section 17.12.050)
Short Subdivision (2-4 Lots) [1]				
Open Space Option	✓		✓	
Cluster Option		✓	✓	
Long Subdivision (4+ Lots)				
Open Space Option	✓		✓	
Cluster Option		✓	✓	
Large Lot Subdivisions			✓	
Commercial and Multifamily Subdivisions				✓
[1] BIMC17.28.020.48 defines the number of lots permitted in a short subdivision				

<sup>11</sup> These materials have been carried over from current code sections 17.04.080 through 083, 17.12.090 through 092, and 17.16.070 except as noted. Where there were minor differences between the text applicable to subdivisions, short subdivisions, and large lots, those differences have been reconciled in favor of more general language applicable to all three types of divisions (as well as commercial, multifamily, and mixed use subdivisions).

## **17.12.020 FLEXIBLE LOT DESIGN REQUIREMENT FOR SINGLE FAMILY SUBDIVISIONS<sup>12</sup>**

### **A. Requirement<sup>13</sup>**

1. All single family residential<sup>14</sup> short and long subdivisions within the city shall be designed in accordance with the city's adopted flexible lot design requirements. If, due to site or design constraints, no homesite with supporting infrastructure can be located on a subject property, no division of land is permitted.
2. Some of the flexible lot design requirements are outlined in this Title 17 and in Title 18, and additional guidance is provided in the City's Flexible Lot Design Handbook, which has been prepared and shall be maintained by the Director, and made available to the public, to assist applicants in the preparation of flexible subdivision designs and applications for residential subdivisions.

### **B. Pre-Existing Lots**

Lots that have previously received final approval from the city, or that have previously received final approval from Kitsap County prior to inclusion within the city boundaries, and that do not comply with the adopted flexible lot design requirements shall be considered existing nonconforming lots, but any future resubdivision of any such lots shall comply with adopted flexible lot design requirements.

### **C. Two Types of Flexible Lot Design Available**

Applicants for a short or long subdivision or resubdivision shall comply with the standards in this Title 17 applicable to Open Space design or the standards applicable to Cluster design. If an applicant does not notify the city of his or her intention to submit a Cluster design, the Open Space design standards shall apply. In some cases, however, site constraints such as the size and shape or the parcel or

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<sup>12</sup> An existing code provision that allows for staff to assist in subdivision design has been deleted per the recommendation of the Ad Hoc Committee [and per PLANNING COMMISSION RECOMMENDATION on 3/25/10](#).

<sup>13</sup> Subsections A, B, and C reflect current city policies and are consistent with RCW Title 58.

<sup>14</sup> Per an Ad Hoc Committee recommendation [and per PLANNING COMMISSION RECOMMENDATION on 3/25/10](#), clarification has been added that all single-family residential subdivisions (including in the R-8 and R-14 zone districts) must go through the flexlot process, to address a gap in the existing code.

the presence of areas subject to BIMC 16.12 (Shoreline Master Program) or 16.20 (Critical Areas) result in only one of the options being feasible.<sup>15</sup>

#### **D. Large Lot Subdivisions**

As authorized by RCW 58.17.040(1) or its successors, the city regulates the division of land into large lots. Large lot subdivisions shall comply with the requirements of BIMC 17.12.040 (General Residential Subdivision Standards), the requirements of BIMC 17.12.060 (Special Requirements for Sensitive Areas), if applicable, and the requirements of Title 18 for the zone district in which the property is located.<sup>16</sup> Large lot subdivisions are not a form of flex lot and therefore are not subject to cluster or open space design requirements.

### **17.12.030 OPEN SPACE/CLUSTER STANDARDS AND HOMESITE LOCATIONS FOR SINGLE FAMILY RESIDENTIAL SUBDIVISIONS**

All short and long subdivisions, except large lot subdivisions, shall comply with the standards in either subsection A or B, and shall also comply with the standards of BIMC 17.12.040 (General Subdivision Standards) and with the standards of BIMC 17.12.060 (Special Requirements for Sensitive Areas) as applicable. In the case of an application for a Housing Design Demonstration Program pursuant to BIMC 2.16.020.Q, the open space requirements of this section shall not be used, and the open space provided in the subdivision shall be evaluated pursuant to BIMC 2.16.020.Q.

#### **A. Open Space Short or Long Subdivisions<sup>17</sup>**

All short and long subdivisions shall comply with the standards of this subsection A unless the applicant chooses to instead comply with the standards of subsection B (Cluster Short or Long Subdivisions).

##### **1. Open Space Objectives**

Open space shall accomplish one or more of the following objectives:<sup>18</sup>

- a. Conservation and enhancement of natural or scenic resources, including wildlife habitat;
- b. Protection of streams and/or the water supply;
- c. Conservation of soils, wetlands, beaches or tidal marshes;

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<sup>15</sup> This paragraph reflects current city practice.

<sup>16</sup> This new paragraph clarifies current practice.

<sup>17</sup> These provisions are combined from current code 17.04.075.C, 17.04.082, and 17.12.092.

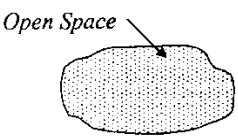
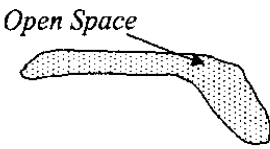
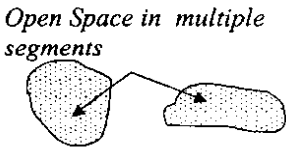
<sup>18</sup> "Should" was changed to "shall".

- d. Enhancement of the value to abutting or neighboring parks, forests, wild preserves, nature reservations or sanctuaries;
- e. Enhancement of recreational and community agricultural opportunities;
- f. Preservation of farmland and historic sites;
- g. Preservation of unique natural land or rock features;
- h. Preservation of visual qualities along highway, road and street corridors or scenic vistas.

**2. Open Space Design Guidelines**

The area designated for open space preservation shall be configured in a manner that enhances and promotes the natural character of the Island and open space characteristics of the property. Open space configuration shall satisfy the following guidelines:

- a. Open space should be concentrated in large, consolidated, usable areas; and
- b. Open space should connect to adjacent off-site open space areas, designated greenways and/or critical areas; and
- c. Open space should be designed to preserve views from off-site of the subject property; and
- d. The area of the open space should be delineated with a low perimeter to area ratio as shown by the examples in Table 17.12.030-1.<sup>19</sup>

Table 17.12.030-1 Configuration of Open Space		
Consolidated Open Space with a low perimeter to area ratio	Open Space with a high perimeter to area ratio	Unconsolidated Open Space
(PREFERRED)	(NOT ACCEPTABLE)	(ACCEPTABLE)
		

<sup>19</sup> The current ordinance language is ambiguous as to whether these guidelines apply to short subdivisions as well. This revised structure clarifies that they do apply to short subdivisions, which is staff's current practice. In addition a design guideline calling for open space to enhance or retain island character was deleted as redundant with the objectives in subsection 1.

### 3. Prioritization of Valued Open Space

The relative desirability of different types of open space is ranked in Table 17.12.030–2, and proposed open space subdivisions shall design open spaces to include areas with higher priority rankings if possible. [If a subdivision site contains a particularly exceptional or rare open space feature that is lower in priority, the applicant and/or city may choose to preserve that feature over those higher in the table.](#)<sup>20</sup> Where valued open space features are present and some portion of those features is adjacent to the same or other listed valued features in Table 17.12.030–2, the protected open space should be designed to include those areas contiguous to valued open space features on adjacent properties.<sup>21</sup>

Table 17.12.030–2: Valued Open Space Features for Open Space Short and Long Subdivisions		
Priority	Open Space Feature	Notes
1.	Critical Areas (as defined in BIMC 16.20), Areas Contiguous with Critical Areas and their Buffers	All critical areas and their associated buffers shall be preserved.
2.	Native Forests and Significant Trees	Significant trees identified consistent with the standards of the landscaping ordinance (BIMC 18.15.010) should be preserved.
3.	Trails and Greenways	Trails and greenways should be preserved.
4.	Pastures, Meadows, Orchards, and	Pastures, farmland and land areas currently or traditionally used in

<sup>20</sup> [This was added per PLANNING COMMISSION RECOMMENDATION on 3/25/10. The purpose is to allow additional flexibility to choose particularly open space features that are rare or exceptional compared to other features on the Island.](#)

<sup>21</sup> ~~The current code has slightly different tables listing desired types of open space; the table for short subdivisions was not prioritized while the table for long subdivisions was prioritized. The two tables have been consolidated into a single prioritized table applicable to both long and short subdivisions per Ad Hoc Committee recommendation. In addition, t~~The introductory paragraph for the existing long subdivision table is now used (with rewording for clarity) for both short and long subdivisions. [The table has been reprioritized per Ad Hoc Committee and Planning Commission recommendation on 3/25/10.](#)

	Farmland	agriculture should be preserved. Where possible, the size and configuration of pasture and farmland areas should permit commercially viable farming
5.	Shoreline View Areas	Shoreline areas identified consistent with the provisions of the shoreline management plan (BIMC 16.12) that are suitable for public access and habitat area should be considered.
6.	Mature Vegetation on Ridgelines	Mature vegetation found on ridgelines of community significance (as viewed from off-site) should be preserved.
7.	Wildlife Corridors	Designated Wildlife Corridors as adopted by Resolution 2001-12 should be preserved.

#### 4. Amount of Open Space Required<sup>22</sup>

##### a. Basis

In determining the open space area requirement stated in subsection 4.b, the city has relied on the Analysis of Open Space Report dated July 15, 2003 and amended April 30, 2004, and the other reports, statutes and documents referenced in the recitals to the ordinance codified in this section (“open space documentation”). The open space documentation shall be incorporated into the record of every short or long subdivision application. In reviewing a short or long subdivision application, the city shall consider the open space documentation as presumptively valid and applicable to the short or long subdivision application.

##### b. Amount Required

The area provided for open space shall be based on and consistent with the existing valued open space features (listed in Table 17.12.030-2) on the subject property, up to a maximum of 25 percent of the area of the property

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<sup>22</sup> The fee-in-lieu provisions of current 17.04.083 has been deleted were removed since it has never been used and is not required by state law.

<sup>22</sup> The reference to state law has been added.

being subdivided, unless additional open space area is otherwise provided pursuant to subsection 5.

All lands subject to Critical Area regulations by BIMC 16.20 shall remain subject to those regulations regardless of whether they are included in the required open space designation.

If a property being subdivided contains valued open space features as described in Table 17.12.030-2 that exceed 25 percent of the gross land area, the maximum required area for open space designation is still 25 percent, unless it includes protected critical area as regulated by BIMC 16.20.

If the gross land area contains less than 25 percent in open space features, then the designated open space is identified accordingly. The Flexible Lot Design Handbook provides assistance on the methodology for designating open space areas. Designated open space areas shall not be required to be dedicated to the public, and the owner shall not be required to permit public access to designated open space areas.<sup>23</sup> Landscape buffers may be included in the open space calculation as specified in BIMC Table 18.15.010-3.

## **5. Open Space Incentives**

### **a. Short Subdivisions**

If an applicant provides an additional 15 percent of permanently protected open space above the maximum 25 percent required by subsection 4, then a short subdivision may include the division or redivision of two or more existing lots, up to nine lots consistent with the procedures and standards contained in this Title.

### **b. Long Subdivisions**

If an applicant provides an additional 15 percent of permanently protected open space above the maximum 25 percent required by subsection 4, then lots within the subdivision that are served by a public sewer service may have reduced minimum lot areas below 5,000 square feet in size. Accessory dwelling units shall not be permitted on any lot that is below 5,000 square feet in size as approved by this open space incentive option.

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<sup>23</sup> The current code contains similar provisions for both short subdivisions and long subdivisions. The existing provisions for short subdivisions are more detailed and better reflect current city practice, so the current wording of the short subdivision standard has now been applied to both short and long subdivisions. The last sentence has been added to this and the following paragraph to avoid any implication that designation of open space areas may constitute a “taking” of private property.

## **6. Open Space Ownership**

Ownership of open space area shall be established consistent with one of the following forms of ownership:

### **a. Private Ownership**

Open space may be held in private ownership if established by easements, restrictive covenants, open space management plan, or other similar legal means; or

### **b. Common Ownership**

Open space may be held in common by a home or property owner's association or other similar organization. For the purposes of this Title, ownership of and/or conservation easement being held by a land trust, or other similar conservancy organization, shall be considered common ownership. If this ownership pattern is selected, covenant, conditions, and/or restrictions shall be required; or

### **c. Public Ownership**

Designated open space areas shall not be required to be dedicated to the City or other public agency, and the owner shall not be required to permit public access to designated open space areas.<sup>24</sup> However, if the owner offers to dedicate, the city or other public agency may choose to accept ownership of open space. Consequently, upon approval and acceptance by the City Council, open space shall be dedicated to the public.

## **7. Uses Allowed in Open Space**

The following uses are allowed in those designated open space areas that are not part of a required landscape buffer (unless zoning regulations of BIMC Title 18, provisions of the Shoreline Master Program per BIMC 16.12, or Critical Areas regulations of BIMC 16.20 restrict that use):

- a. Passive recreation, including pervious trails;
- b. Agricultural uses and fencing necessary for animal control, excepting those agricultural uses that require buildings<sup>25</sup>;
- c. Potable water wells and well houses;
- d. Low impact fencing or signs marking the open space boundary or critical area boundary;<sup>26</sup>

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<sup>24</sup> This sentence has been added to ensure that this provision does not inadvertently cause a "taking" of private property in violation of RCW 58.17.110(2).

<sup>25</sup> This standard now applies to both temporary and permanent buildings.

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- e. Onsite sewage treatment system use approved by the director for all residential zones, if the applicant can demonstrate that (1) the proposed use will not adversely affect the function or characteristics of the specific open space, (2) the system is approved by the Kitsap County Health District, and (3) construction of the system will not require the removal of significant trees, native forests, vegetation within a required buffer for designated critical areas subject to BIMC 16.20, or vegetation within areas designated for protection under the Shoreline Master Program pursuant to BIMC 16.12<sup>27</sup>
  - f. Storm drainage system use approved by the director for all residential zones if the applicant can demonstrate that (1) enhanced vegetation will be provided so that the facility appears as a natural feature, (2) the proposed use will not adversely affect the function or characteristics of the specific open space, (3) the system meets the design standards of BIMC 15.20 and 15.21, including low impact development designs, and (4) the system design must contribute to the function and characteristics of the open space feature by providing the following:
    - i. The design will include natural contours with slopes no greater than 2:1<sup>28</sup> for any above ground storm detention facilities; and
    - ii. Enhanced vegetation will be provided in conjunction with the storm drainage facility in order to make it a more natural feature;<sup>29</sup> and
    - iii. Pedestrian trails should be considered as part of the design; and
    - iv. While fencing of designated open spaces or critical areas may be required by the Director pursuant to BIMC 17.12.030.A.8.a, separate fencing of storm drainage facilities or areas shall only be installed if necessary to protect public safety. Where fencing is required, low impact fencing shall be used, and chain-link fences are prohibited unless superseded by state law.
  - g. Playgrounds and tot lots, picnic shelters and benches, community gardens, bus shelters, community art, or fountains may be allowed within a

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<sup>26</sup> This provision now covers fencing of critical areas as well as opens spaces.

<sup>27</sup> Subsections e and f have been clarified to cover all residential districts (including R-0.4), which was excluded from the current long subdivision standards. Subsection f has been revised to require that stormwater facilities comply with low impact development standards.

<sup>28</sup> For accuracy, 1:2 ratio was changed to 2:1.

<sup>29</sup> This provision was changed from “riparian vegetation” to “enhanced vegetation” and the phrase “in order to make it a more natural feature” was added to better meet the intent of the regulation.

designated open space area, provided the proposed use will not adversely affect the function or characteristics of the specific open space.<sup>30</sup>

- h. Solar panels, small wind energy generators, composting bins, rainwater harvesting barrels, cisterns, and raingardens/swales, as defined in BIMC18.36, may be allowed within a designated open space area, provided the proposed feature will not result in the damage or removal of significant trees.<sup>32</sup>

### 8. Open Space/Critical Area Fencing, Signage and Management Standards

The following fencing and management standards apply to designated open space areas. In addition to the standards listed in this subsection, designated open spaces containing sensitive areas shall comply with any additional management standards required to protect those areas pursuant to BIMC 17.12.060 (Special Requirements for Sensitive Areas), Title 16.12 (Shoreline Management Master Program) and Title 16.20 (Critical Areas) as applicable.

- a. Either fences and/or signs delineating open space and critical area buffers are required. The Director shall determine which option (fence or sign) is required, based on the likelihood of encroachment into designated open space areas.
- i. If fencing is required:
- Low impact fences are preferred and must be constructed in accordance with the definition in 17.28.020; and
  - The Director has the authority to raise the maximum height of fencing to ensure that the fence is adequate to exclude livestock while allowing passage for intended wildlife species.
- ii. If signs are required:
- They shall be constructed in accordance with the definition in BIMC 17.28.020; and
  - They shall be generally spaced at intervals of 50 feet, unless otherwise approved by the director due to reasons such as topography, configuration of open space, distance from other features, etc.
- iii. If signage is required and encroachments into the designated open space occur, the Director may require that the owner install fencing and/or additional signage to prevent future encroachments. Required fencing

<sup>30</sup> This provision was extended to apply to short as well as long subdivisions and to include bus shelters, community art, and sustainability provisions per the Ad Hoc Committee recommendation [and per PLANNING COMMISSION RECOMMENDATION on 3/25/10](#).

and signs must be maintained in good repair, with repair or replacement to occur within sixty (60) days of notification from the city that repair or replacement is required.<sup>31</sup>

**b. Open Space Management Plan Required.** An applicant shall submit a draft open space management plan (OSMP) as described in the Bainbridge Island Administrative Manual, for review as part of the preliminary plat application. Final approval of the OSMP will occur at the time of final plat approval. The open space management plan shall include:

**i.** A list of all approved uses for the open space areas. Where uses in separate open space areas vary, the specific location of each use shall be depicted graphically.

**ii.** A maintenance plan for open space areas that clearly describes the frequency and scope of maintenance activities for open space areas and that meets all requirements set forth in the Bainbridge Island Administrative Manual.<sup>32</sup>

The approved OSMP must be filed with the Kitsap County Auditor. In the event that the open space area is not maintained consistent with the open space management plan, the city shall have the right to provide the maintenance of the open space and bill the owner for the cost of maintenance.

## **B. Cluster Short and Long Subdivisions<sup>33</sup>**

If an applicant chooses to apply for a cluster short or long subdivision, the open space provisions of subsection A shall not apply. Clustering shall be accomplished through the design process specified in the Flexible Lot Design Handbook. The following requirements shall apply to cluster short and long subdivisions:

### **1. Homesite Clustering**

The purpose of clustering is to facilitate the efficient use of land by reducing disturbed areas, impervious surfaces, utility extensions and roadways. Homesites shall be located in cluster groupings and the efficient location of infrastructure shall be used to maximize the undeveloped area. Four or more homesites shall

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<sup>31</sup> Reworded for clarity, and the duty of maintenance and replacement has been added.

<sup>32</sup> Detailed requirements for open space management plans listed in current code 17.04.082.H.2 – except for fencing requirements -- will now be found in the Administrative Manual. Fencing requirements are reworded for clarity in subsection 8.a.

<sup>33</sup> This section is carried over from current code 17.04.075.A.5, but has been reordered and reworded for clarity.

constitute a cluster grouping in a long subdivision, and two or more homesites shall constitute a cluster grouping in a short subdivision.

- a. All homesites in a cluster grouping shall adjoin or be located a maximum of 25 feet apart from another homesite.<sup>34</sup>
- b. The city encourages design of homesite cluster groups that create open areas large enough to accommodate Crop Agriculture, when such areas are created. The applicant shall record covenants making it clear to lot buyers that Crop Agriculture may take place on the open areas.<sup>35</sup>
- c. The location of homesite cluster groups are not required to be located near any existing home on the property.<sup>36</sup>

## 2. Homesite Area

- a. The homesite area is for development of the primary residential dwelling and accessory buildings for each lot within the subdivision.
- b. In the R-0.4, R-1, R-2, and R-2.9 zoning districts, a homesite area with a maximum area of 10,000 square feet shall be provided for each lot and shall be depicted on the face of the plat.
- c. In the R-3.5 and R-4.3 zoning districts, a homesite area with a maximum homesite area of 7,600 square feet shall be provided for each lot and shall be depicted on the face of the plat.
- d. In the R-5, R-6, R-8, and R-14 zoning districts, a homesite area with a maximum area of 5000 square feet shall be provided for each lot and shall be depicted on the face of the plat.<sup>37</sup>
- e. Other allowed uses and structures, including well houses, may be located within the lot and outside the homesite area; provided that all other applicable requirements of BIMC are satisfied.<sup>38</sup>

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<sup>34</sup> This provision has been revised to remove fire safety exceptions to reflect recent changes to the fire code. An exception to the 25 foot separation maximum if critical areas are present was deleted because an open space subdivision should be pursued in this instance, per Ad Hoc Committee recommendation [and per PLANNING COMMISSION RECOMMENDATION on 3/25/10](#).

<sup>35</sup> This is a new provision to encourage agriculture.

<sup>36</sup> This is a new provision to clarify current practice.

<sup>37</sup> Current Code does not explicitly state that single-family subdivisions within the urban multi-family zone districts have to comply with the flexible lot design and open space standards, but it has been applied in this manner in the past. This is a new section for clarification, as recommended by the Ad Hoc Committee.

<sup>38</sup> This provision has been expanded by adding a reference to well houses.

- f. Designated homesites shall not include designated critical areas or their buffers.<sup>39</sup>
- g. Fencing or signage of designated critical areas shall be required pursuant to BIMC 17.12.030.A.8.a.

## **17.12.040 GENERAL RESIDENTIAL SUBDIVISION STANDARDS<sup>40</sup>**

All residential short, long, and large lot subdivisions shall comply with the following standards.

### **A. Compliance with Titles 16, 18 and RCW Title 58**

Lot areas, dimensions, and other characteristics shall comply with the requirements of Title 18 applicable to the zone district where the land is located, including landscaping and/or vegetated buffers. In addition, each subdivision plat shall comply with all applicable provisions of RCW Title 58 (Boundaries and Plats) or its successors.<sup>41</sup> Subdivisions including sensitive areas or their required buffers shall also comply with the provisions of BIMC 17.12.060.

### **B. Homesites**

Residential homesites shall be located consistent with the design methodology prescribed in the Flexible Lot Design Handbook.

### **C. Water Supply Systems**

Locations of individual or community water supply systems and associated wellhead protection areas required by the health district, shall comply with all applicable standards established by the health district.

### **D. Septic Systems**

Locations of individual or community drainfields and associated reserve drainfields shall comply with all applicable standards established by the health district.

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<sup>39</sup> New provision for consistency with BIMC 16.20.

<sup>40</sup> This section contains provisions from current code 17.04, 17.12, and 17.16 that were identical or virtually identical for all three types of residential subdivisions. In some cases, wording was changed so that substantive requirements did not include references to application maps and materials.

<sup>41</sup> Wording expanded to require compliance with all requirements of Title 18 (not just minimum lot sizes), which reflects current city policy as well as state law requirements.

## E. Roads and Pedestrian Access<sup>42</sup>

1. Roads and access complying with the “City of Bainbridge Island Design and Construction Standards and Specifications” and all applicable requirements of the BIMC, shall be provided to all proposed lots consistent with the standards contained within this subsection.
2. A variation from the road requirements and standards contained within the “City of Bainbridge Island Design and Construction Standards and Specifications” may be approved by the city engineer through the minor variance process described in BIMC Title 2.<sup>43</sup>
3. Existing roadway character shall be maintained where practical. This may be accomplished through the reduction of roadway width consistent with subsection E.2, the minimization of curb cuts, and the preservation of roadside vegetation. To minimize impervious surfaces, public rights-of-way, access easements and roadways shall not be greater than the minimum required to meet standards unless the City Engineer agrees that the additional size is justified.
4. Connections to existing off-site roads that abut the subject property shall be required where practicable, except through critical areas and/or their buffers. <sup>44</sup>
5. Street names and traffic regulatory signs shall be provided, and their locations shall be indicated on the plat/plan. The location of mailboxes and traffic regulatory signs is only required to be indicated on the plat/plan when other public improvements are required.
6. Transit stops shall be provided as recommended by Kitsap Transit.
7. Pedestrian and bicycle circulation and access within a subdivision and onto the site shall be provided through walkways, paths, sidewalks, or trails and shall be consistent with the nonmotorized transportation plan. Pursuant to RCW 58.17.110(1) sidewalks shall be provided, where necessary, to assure safe walking conditions for students who walk to and from school. Special emphasis shall be placed on providing pedestrian access to proposed recreational and/or open space areas.

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<sup>42</sup> Most of these provisions are carried over and reworded from current code 17.04.080, 17.12.090, and 17.16.070.

<sup>43</sup> The ability to apply for a variance for road requirements and standards is new.

<sup>44</sup> The wording of subsections 4 and 7 have been revised to clarify that they apply to all long, short, and large-lot subdivisions (not just long subdivisions), which reflects the city’s current practice.

## **F. No City Maintenance of Streets in Short Subdivisions<sup>45</sup>**

Streets within a short subdivision shall not be maintained by the city unless such streets have been dedicated as a right-of-way, improved to current city standards, and have been accepted as part of the approved short subdivision. Therefore, unless accepted, the responsibility for maintenance shall lie with the owners of the lots.

## **G. Improvements**

1. Where the buildout of a subdivision is divided into phases, land dedications and infrastructure development will be required on a pro-rata basis as each phase is developed unless the applicant negotiates an alternative phasing schedule with the City. This will be required to be documented on a plat note.
2. On any approved large lot, no further lot divisions shall be approved until the required improvements are installed by the applicant and approved by the City.
3. All large lot subdivisions shall have the following improvements developed and/or installed prior to recording:
  - a. Streets shall be cleared, grubbed, and rocked or graveled to provide adequate year-round passage
  - b. Appropriate drainage, including erosion control, facilities shall be provided consistent with a plan approved by the city engineer prior to clearing and construction of any plat improvements. (Ord. 96-06B § 3, 1996)

## **17.12.050 MULTI-FAMILY AND NON-RESIDENTIAL SUBDIVISIONS<sup>46</sup>**

Subdivisions established for multi-family and non-residential uses are not subject to open space or cluster flexlot provisions, and shall comply with each of the following:

- A. All provisions of BIMC Title 18 (Zoning) applicable to the zone district where the property is located and the type of development anticipated. This requirement shall include, without limitation, compliance with lot areas, dimensions, and design, mobility and access, landscaping, screening, and vegetative buffers.<sup>47</sup>

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<sup>45</sup> This provision is carried over from current code 17.04.200, but is being checked with the City Engineer for accuracy.

<sup>46</sup> Current code sections 17.04.085 and 17.12.095 currently contain subsections on (1) complying with the minimum lot size of the zone district, (2) 25 foot vegetative buffers, and (3) bicycle and pedestrian access. Since topics (1), (2), and (3) are now covered in Title 18, this section is being replaced with a simple cross-reference to Title 18.

<sup>47</sup> Wording expanded to require compliance with all requirements of Title 18 (not just minimum lot sizes), which reflects current city practice.

- B. All provisions of BIMC Title 16 (Environment) applicable to the area where the property is located and the type of development anticipated.
- C. All applicable provisions of RCW Title 58 (Boundaries and Plats) or its successors.
- D. As an option, nonresidential and multi-family residential subdivisions may provide open space pursuant to 17.12.030.A.

## **17.12.060 SPECIAL REQUIREMENTS FOR SENSITIVE AREAS<sup>48</sup>**

### **A. Critical Areas**

1. Any portion of a short or long subdivision, large lot subdivision, nonresidential or multifamily subdivision that contain a critical area as defined in BIMC 16.20 must conform to all requirements of that Title.
2. Any portion of a short or long subdivision, large lot subdivision, or a nonresidential or multifamily subdivision shall comply with the fencing and signage requirements of BIMC 17.12.030.A.8.a or 17.12.030.B.2.g, as applicable.
3. When required by RCW 36.70A.060 or its successors, the final short or long subdivision, large lot subdivision, nonresidential or multifamily subdivision must contain a notice that the subject property is on or within 300 feet of lands designated agricultural lands, forest lands or mineral resource lands. (Ord. 98-20 § 13, 1998; Ord. 96-06B § 1, 1996)

### **B. Shoreline Master Program Areas**

Any portion of a short or long subdivision, large lot subdivision, nonresidential or multifamily subdivision located within the jurisdiction of the Shoreline Master Program, as defined in BIMC 16.12, must conform to all requirements of that Title.

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<sup>48</sup> This material is carried over from 17.04.120 and 17.12.220, and 17.16.240. In the current code these provisions do not apply to commercial or multifamily subdivisions, but they apply as a matter of law, so we clarified that by adding them to the text.

## **17.16 BOUNDARY LINE ADJUSTMENTS**

Boundary line adjustments may be requested to consolidate existing lots, or to formalize boundaries between platted or unplatted lots or both. Boundary line adjustments shall be completed pursuant to the procedures and decision criteria set forth in Title 2 (Administration and Personnel).

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## 17.20 DEDICATIONS OF LAND

### **17.20.010 GENERAL<sup>49</sup>**

As authorized by RCW 58.17.110(2) or its successors, in order to meet the health, safety and welfare needs of the public and mitigate the impacts of the proposal, the director or city engineer may condition approval of the subdivision upon dedications for drainage ways, other public ways, water supplies, sanitary waste facilities, parks, playgrounds, sites for schools and school grounds, site protection of critical areas, and other needs of the public, as long as such dedication does not constitute an unconstitutional taking of private property. (See also BIMC 12.30) (Ord. 2003-49 § 12, 2004: Ord. 98-20 § 13, 1998; Ord. 96-06B §§ 1, 2, 3, 1996)

### **17.20.020 LAND FOR PARK AND RECREATIONAL FACILITIES<sup>50</sup>**

#### **A. Policy**

It is the policy of the city to require the dedication of land within a proposed development, where it is deemed necessary, for park and recreational purposes, as a condition of final approval of a short or long subdivision, large lot subdivision, nonresidential subdivision, or approval of any permit issued under the International Building Code for the development of a multifamily residential development or approval of any application for development of multifamily uses; provided, that such dedication must be reasonably necessary as a direct result of the proposed development. This policy shall be implemented in a manner consistent with RCW 58.17.110(2) or its successors, which requires that any such dedication not involve an unconstitutional taking of private property.<sup>51</sup>(Ord. 84-09 § 1, 1984)

#### **B. Applicability**

Dwelling units existing on November 24, 1979, shall not be included in any city determination of need for dedication of land. (Ord. 84-09 § 6, 1984)

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<sup>49</sup> This material is carried over from 17.04.110, 17.12.120, and 17.16.260. Minor differences in wording were reconciled, and the reference to constitutional limits previously found in the subdivision section is now extended to short subdivisions and large lot subdivisions as well. A reference to state law was added.

<sup>50</sup> This material is carried over from current code section 17.08 but clarified to apply to commercial and multifamily developments as well. References to city requirements for a fee-in-lieu of dedication were removed since it has never been used and is not required by state law.

<sup>51</sup> The reference to state law has been added.

**C. Fee Agreement in Lieu of Dedication of Land.<sup>52</sup>**

If, in the opinion of the responsible city agency or official, the city's needs for parks and recreational facilities would be best served by collection of a fee in lieu of dedication of land, the city may, in addition to or in alternative to requiring dedication of land, accept a voluntary agreement by the owner of a proposed development for payment of a fee in lieu of dedication, which payment would mitigate in whole, or in part, a direct impact of the proposed development on the park and recreational facilities of the city; provided, that unless specifically agreed otherwise, any such voluntary agreement shall be subject to the following provisions:

1. The payment shall be held in a reserve account and may only be expended to fund a capital improvement agreed upon by the parties prior to the land use decision<sup>53</sup> to mitigate the identified direct impact;
2. The payment shall be expended in all cases within five years of collection; and
3. Any payment not so expended shall be refunded with interest at the rate applied to judgements to the property owners of record at the time of the refund; however, if the payment is not expended within five years due to delay attributable to the developer, the payment shall be refunded without interest. (Ord. 84-09 § 2, 1984)

**D. Criteria for Requiring Dedication of Land, Payment of Fee or Both.**

The responsible city agency or official shall determine whether dedication of land, acceptance of a payment of a fee in lieu thereof, or both the dedication of land and payment of a fee in lieu thereof is most appropriate. The responsible city agency's or official's decision shall be determined by consideration of the following factors:

1. Compatibility with the city's comprehensive plan, comprehensive park plan or future park plans; and
2. Topography, geology, access and location of land in the subdivision or residential development suitable for dedication; and
3. Size and shape of the subdivision, short plat or residential development and the location of land suitable for dedication; and
4. The feasibility of dedication; and

<sup>52</sup> Fee in lieu provisions were originally deleted in the draft T. 17, but have been reincorporated per PLANNING COMMISSION RECOMMENDATION on 3/25/10.

<sup>53</sup> The phrase "prior to the land use decision" was added per PLANNING COMMISSION RECOMMENDATION on 3/25/10.

5. The proximity of the subdivision, short plat or residential development to previously acquired park property; and
6. The possibility of combining the land to be dedicated for park purposes with existing park or recreational facilities when the parcel to be dedicated does not exceed one acre in area; and
7. The existence of covenants for open space as specified in Sections 17.20.020.E, 17.20.020.F, and 17.20.020.H (Ord. 84-09 § 3, 1984).

#### **C.E. Covenants – Approval by City**

In determining the need for dedication of land, the Director shall consider any proposed covenants for private parks or recreational facilities that are made as part of a development proposal. The city may approve covenants in addition to or as an alternative to requiring dedication of land, in order to mitigate the impacts of a proposed development on city parks and recreational facilities. (Ord. 84-09 § 4(A), 1984)<sup>54</sup>

#### **D.F. Amount of Land Dedication Required**

The amount of land required to be dedicated shall be based on a study quantifying the per person, per household, per dwelling unit, or per commercial square impact of new development on existing dedicated infrastructure in the city, and the results of that study shall be adopted by city council to be applied on a formula basis to new development or redevelopment prior to being applied to any specific short or long subdivision, large lot subdivision, or nonresidential or multifamily subdivision. If the city determines that the formula land dedication requirements based on the study will not offset the impacts of the proposed development on public lands in the city, the city may conduct an individualized determination providing written analysis of the actual impacts of the development on dedicated lands for open space, recreation, or other purposes, and may base its land dedication requirements on that individualized determination.<sup>55</sup>

#### **E.G. Credit for Dedication Requirement**

Where private open space for park and recreational facilities is provided in a proposed short or long subdivision, large lot subdivision, or residential or nonresidential development or proposed development of multifamily residential use

<sup>54</sup> This section has been reworded for clarity and to remove references to open spaces, since dedicated land may be required for other purposes.

<sup>55</sup> This is a new provision designed to clarify that the basis for land dedication amounts in a way that complies with federal law.

and such space is to be privately owned and maintained by the future residents of the subdivision or residential property, such areas may, in the sole discretion of the city, be credited against the amount of land that the city determines should be dedicated pursuant to subsection F, provided that the city finds it in the public interest to do so, and determines that the following standards are met:

1. The yards, court areas, setbacks and other open areas required by the zoning and building regulations are not included in the computation of such private open space; and
2. The private ownership and maintenance of the open spaces are adequately provided for by written agreement meeting the requirements of the Open Space Management Plan described in BIMC 17.12.020.A.8<sup>56</sup>; and
3. The proposed private open space is reasonably adaptable for use for park and recreational purposes, taking into consideration such factors as size, shape, topography, geology, access and location of the land; and
4. Facilities proposed for the open space are in general accord with the intent of the comprehensive plan and the Bainbridge Island Metropolitan Park District Comprehensive Plan; and
5. The open space and/or facilities will provide for the park and recreational needs of the residents of the short or long subdivision or residential development in such manner as to reduce the impact on existing park or recreational facilities within the city or will reduce the need to provide new park or recreational facilities within the city. (Ord. 84-09 § 4(B), 1984)

#### **F.H. Recording**

In those instances where proposed covenants for private parks or recreational facilities are approved under the provisions of this Title, they must be recorded with the Kitsap County auditor as follows:

1. All such open space covenants relating to subdivision shall be recorded at the time of the recording of the final short plat or subdivision map; and
2. All other such open space covenants shall be recorded with the Kitsap County auditor within 10 days of the date of approval by the appropriate agency of such open space covenants for private parks or recreational activities; and
3. All recording costs shall be borne by the applicant; and (Ord. 84-09 § 4(C), 1984)

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<sup>56</sup> A reference to the Open Space Management Plan has been added, so the management responsibilities are the same whether the designated open space is in private or public ownership.

4. A recorded copy of the covenants shall be provided to the Department of Planning and Community Development.

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## 17.24 ENFORCEMENT AND PENALTIES<sup>57</sup>

### **17.24.010 ILLEGALLY DIVIDED LAND**

No building permit or development permit of any sort shall be issued for lots created in violation of this Title 17 or related provisions of Title 2 (Administration and Personnel), Title 16 (Environment), or Title 18 (Zoning) provided an innocent purchaser for value may obtain permits needed for development upon application to the department and decision by the hearing examiner pursuant to BIMC 2.16.100, after notice, if such purchaser shows the following:

- A. The lot was purchased at a market value not reflecting the illegal division; and
- B. The purchaser exercised reasonable diligence but did not know of the illegal division; and
- C. The public interest will not suffer. (Ord. 96-06B § 1, 1996)

### **17.24.020 PENALTIES**

- A. Any person, firm or corporation violating any provision of the Code, including any condition of an approved plat, related to the division of land shall be guilty of a gross misdemeanor and each such person, firm or corporation shall be deemed guilty of a separate offense for each and every day or portion of a day during which any such violation is committed, continued, or permitted. Upon conviction of any violation of any provision of BIMC related to the division of land, the person, firm or corporation shall be punished by a fine of not more than \$5,000 or imprisonment for not more than one year, or by both such fine and imprisonment. (Ord. 96-06B § 1, 1996)
- B. The provisions of subsection A shall not be applied in any manner inconsistent with the penalties provided for in RCW Title 58 (Boundaries and Plats) or its successors. In addition, the city may impose any additional penalties for violations authorized by Title 58.<sup>58</sup>

### **17.24.030 ENFORCEMENT**

- A. Whenever any parcel of land is divided into lots, large lots, tracts, or parcels of land contrary to the provisions of BIMC related to the division of land, and any person, firm or corporation or any agent of them sells or transfers, or offers or advertises for

<sup>57</sup> This material is carried over from current code 17.04.140, 150, and 160, 17.12.210, 240 and 250, and 17.16.310, 320 and 330. Minor differences in wording were reconciled.

<sup>58</sup> This is a new provision to ensure consistency with state subdivision law.

- sale or transfer any such lot, large lot, tract, or parcel without having an approved final plat of such subdivision filed for record, the city may commence action to restrain and enjoin further subdivisions or sales, or transfers, or offers of sale or transfer and compel compliance with all provisions of BIMC related to the division of land. The costs of such action shall be imposed on the person, firm, corporation or agent selling or transferring the property through any method authorized by law.
- B. Whenever land within a short or long subdivision, large lot subdivision, nonresidential or multifamily subdivision that has been granted final approval is used in a manner or for a purpose that violates any provision of BIMC related to the division of land or violates any condition attached to such final approval:
1. In addition to any penalties provided in BIMC 17.24.020 or BIMC 1.26.090, the city may commence action to restrain and enjoin such use and compel compliance with the provisions of BIMC or with such terms and conditions. The costs of such action may be imposed against the violator through any method authorized by law. (Ord. 96-06B § 1, 1996)<sup>59</sup>
  2. The city may enforce compliance with this Title 17 through any methods described in BIMC 18.33.
- C. The provisions of subsections A and B shall not be applied in any manner inconsistent with enforcement provisions authorized in RCW Title 58 (Boundaries and Plats) or its successors. In addition, the city may enforce the provisions of this Title 17 and cross-referenced provisions in other Titles of the Bainbridge Island Municipal Code through any additional methods of enforcement authorized by RCW Title 58.<sup>60</sup>

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<sup>59</sup> These provisions were extended to cover commercial and multifamily subdivisions as well as residential subdivisions.

<sup>60</sup> This is a new provision to ensure consistency with state subdivision law.

## 17.28 DEFINITIONS<sup>61</sup>

### **17.28.010 RULES OF CONSTRUCTION**

Rules of construction shall be those listed in BIMC 18.36.010.

### **17.28.020 DEFINITIONS**

#### **17.28.020.1. Arterial**

“Arterial” means a major thoroughfare used mainly for through traffic rather than access to nearby property. Arterials have greater traffic carrying capacity than collector or local streets and are designed for continuously moving traffic.<sup>62</sup>

#### **17.28.020.2. Block**

“Block” means a group of lots, tracts or parcels within well defined and fixed boundaries.

#### **17.28.020.3. Buffer<sup>63</sup>**

“Buffer” as defined in BIMC 18.36.

#### **17.28.020.4. Circle Template**

“Circle Template” as defined in BIMC 18.36.

#### **17.28.020.5. Cluster Development**

“Cluster development” means a group of adjoining homesite areas situated in a suitable area of a property, designed in such a manner that facilitates the efficient use of land by reducing disturbed areas, impervious surfaces, utility extensions and roadways, while providing for the protection of valued open space features.

#### **17.28.020.6. Cluster Grouping**

“Cluster grouping” means a grouping of two or more homesite areas for short subdivisions and a grouping of four or more homesites for long subdivisions regulated by BIMC 17.12.030.B.

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<sup>61</sup> These materials have been carried over from current code sections 17.04.040, 17.12.040, and 17.16.040 except as noted. Definitions that are no longer used in the Title have been deleted. Definitions for terms removed for inclusion in the Administrative Manual have been included in Administrative Manual Materials, definitions related to vegetation, landscaping, and rules of measurement have been moved to Title 18 (Zoning).

<sup>62</sup> Revised definition to replace a general reference to the comprehensive plan.

<sup>63</sup> The existing definitions of Buffer in Titles 17 and 18 are very similar, so the Title 18 definition is now cross-referenced.

**17.28.020.7. Code**

“Code” means the City of Bainbridge Island Municipal Code.

**17.28.020.8. Collector**

“Collector” means a collector road as defined in the city of Bainbridge Island Comprehensive Plan.

**17.28.020.9. Comprehensive Plan<sup>64</sup>**

“Comprehensive plan” as defined in BIMC 18.36.

**17.28.020.10. Contiguous Land**

“Contiguous land” means land adjoining and touching other land regardless of whether or not portions of the parcels have separate tax numbers, or were purchased at different times, in different sections, are in different government lots or are separated from each other by public or private easement or right-of-way.<sup>65</sup>

**17.28.020.11. Critical Areas**

“Critical areas”, as used in this Title, means critical areas and their protective buffers as described by BIMC 16.20.

**17.28.020.12. Dedication<sup>66</sup>**

“Dedication” means the deliberate assignment 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. The intention to dedicate shall be evidenced by the owner by the presentment for filing of a final plat of a short or long subdivision, a large lot subdivision, or a nonresidential or multifamily subdivision showing the dedication. Acceptance of the filing shall be by approval of the final plat by the city.

**17.28.020.13. Department<sup>67</sup>**

“Department” as defined in BIMC 18.36.

**17.28.020.14. Director**

“Director” as defined in BIMC 18.36.

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<sup>64</sup> The definitions of comprehensive plan in Titles 17 and 18 are identical except that the Title 17 definition included amendments to the plan. That clause will be added to the Title 18 definition.

<sup>65</sup> Last clause revised for clarity.

<sup>66</sup> This provision has been revised to clarify that it applies to all types of subdivisions.

<sup>67</sup> Existing definitions for Department and Director have been replaced by cross-references to similar or identical definitions in Title 18.

**17.28.020.15. Division**

“Division” means a portion of property within an approved preliminary subdivision that is authorized to be recorded separately by the specific terms and conditions of the preliminary and/or final subdivision approval.

**17.28.020.16. Easement**

“Easement” means a right of use granted by a property owner to specific persons or to the public for use of land for a specific purpose.

**17.28.020.17. Farm and Farmland**

“Farms and farmland” mean land used for Crop Agriculture or Livestock Agriculture, as those terms are defined in BIMC 18.36.<sup>68</sup>

**17.28.020.18. Final Subdivision or Final Plat**

“Final subdivision” or “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 RCW 58.17 or its successors and the Bainbridge Island Municipal Code.

**17.28.020.19. Flexible Lot Design**

“Flexible lot design” is the design process the city uses that permits flexibility in lot development and encourages a more creative approach than traditional lot-by-lot subdivision. The flexible lot design process includes lot design standards, guidance on the placement of buildings, use of open spaces and circulation that best addresses site characteristics. This design process permits clustering of lots, with a variety of lot sizes, to provide open space, maintain island character and protect the Island’s natural systems.

**17.28.020.20. Footprint**

“Footprint” means a Building Footprint as defined in BIMC 18.12.050.

**17.28.020.21. Greenway**

“Greenway” means a system composed of land areas and connector links. The land areas include, but are not limited to: large open areas, public lands, farmlands, critical areas, forests, shoreline areas, and parks. The features of the connector links include trail systems, riparian areas, visual or scenic views of ridgelines, wildlife corridors or any combination of these.

**17.28.020.22. Health District**

“Health district” means the Kitsap County Health District.

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<sup>68</sup> Revised to replace cross-reference to Title 16 with a cross-reference to updated agricultural terms in Title 18.

**17.28.020.23. Hearing Examiner**

“Hearing examiner” means the official designated as the hearing examiner for the city pursuant to BIMC Title 2.

**17.28.020.24. Homesite Area**

“Homesite area” means the area of a lot depicted on the face of a plat that is intended for development of the primary residential dwelling and accessory buildings and necessary infrastructure within a cluster subdivision.<sup>69</sup>

**17.28.020.25. Island Character**

“Island character” is the term used to describe the special character of the Island – winding, narrow and vegetated roadways and forested areas, meadows, farms, areas that contain much of the Island’s wetlands and streams, aquifer recharge areas and fish and wildlife habitat areas. For the purposes of this Title, it does not refer to a level of service, or type of development, or measure of development intensity.

**17.28.020.26. Large Lot Subdivision**

A “large lot subdivision” means the division or redivision of land into two or more lots for the purpose of sale, lease or transfer of ownership where each lot is not smaller than five acres or 1/128 of a section (whichever is smaller); provided, that this shall not include division or redivision of land where all parcels are greater than 20 acres or 1/32 of a section.

**17.28.020.27. Laws of Descent<sup>70</sup>**

“Laws of Descent” means the rules of inheritance law established by the State of Washington and the federal government that apply in cases where there is no will naming the persons to receive the possessions of a person who has died.

**17.28.020.28. Long Subdivision<sup>71</sup>**

“Long Subdivision” means the division or redivision of land into five or more lots, tracts (except tracts specifically reserved as open space), parcels, sites or divisions for the purpose of sale, lease or transfer of ownership, but shall not include a short subdivision.

**17.28.020.29. Lot**

“Lot” means a lot as defined in BIMC 1836.

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<sup>69</sup> Revised to expand definition of areas covered to include all accessory structures and infrastructure.

<sup>70</sup> This is a new definition.

<sup>71</sup> This is the current definition of “subdivision” renamed to reflect the new labels used throughout Title 17.

**17.28.020.30. Low-Impact Fencing<sup>72</sup>**

“Low-impact fencing” means a fence designed to preserve views into an area and wildlife access to and from the area while providing a physical barrier to prevent livestock or humans from easily or inadvertently entering the area. Low-impact fencing includes without limitation two- or three-tier split-rail or horse-rail fencing not exceeding five (5) feet in height, four (4) inch by four (4) inch wooden posts with two or three strands of cable in between, or other fencing with similar visual, barrier, and access characteristics as determined by the Director.

**17.28.020.31. Mature Vegetation on Ridgelines**

“Mature vegetation on ridgelines” as defined in BIMC 18.36.

**17.28.020.32. Meadow**

“Meadow” means an open, nonforested area formed by the land’s natural features and events of nature.

**17.28.020.33. Native Forest**

“Native forest” means established forest areas primarily consisting of native trees and plants.

**17.28.020.34. Native Vegetation**

“Native vegetation” as defined in BIMC 18.36.

**17.28.020.35. Off-Site Views or Views from Off-Site**

“Off-site views” or “views from off-site” as defined in BIMC 18.36.

**17.28.020.36. Open Space**

“Open space” means any area of land that is predominately undeveloped and that provides physical and/or visual relief from the developed environment in perpetuity; that is generally unimproved and set aside, designated or reserved for public use or enjoyment, or used for the private use and enjoyment of property owners. Open space may consist of undeveloped areas, such as pastures and farmlands, woodlands, greenbelts, critical areas, pedestrian corridors and other natural areas that provide recreational opportunity and visual relief from developed areas. Open space excludes tidelands, areas occupied by buildings, and any other developed areas such as driveways, all rights-of-way and any other impervious surfaces not incidental to open space purposes.

**17.28.020.37. Open Space/Critical Areas Sign**

“Open Space Sign” means a sign used to delineate the boundaries of designated open space, critical areas, and/or their buffers. Open space/critical areas signs shall be made of metal or similar durable material and shall be between 64 and 144 square inches in size.

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<sup>72</sup> This is a new definition.

**17.28.020.38. Orchard**

“Orchard” as defined in BIMC 18.36.

**17.28.020.39. Pasture**

“Pasture” means land used for grazing.

**17.28.020.40. Phasing**

“Phasing” means the use of limits on construction, permitting or occupancy to reduce the immediacy or severity of impacts of the subdivision on the environment or to better achieve the requirements of state law for the concurrence of the facilities and services with the needs generated by development.

~~17.28.020.40.~~**17.28.020.41. Plat**<sup>73</sup>

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

~~17.28.020.41.~~**17.28.020.42. Planning Commission**

“Planning commission” means the Bainbridge Island Planning Commission, as described in BIMC 2.14.020.

~~17.28.020.42.~~**17.28.020.43. Platted Lot**

“Platted lot” means a fractional part of divided lands having fixed boundaries, being of sufficient area and dimension to meet minimum zoning requirements for width and area and the flexible lot development standards contained within this Title. The term includes tracts or parcels.

~~17.28.020.43.~~**17.28.020.44. Preliminary Plat**<sup>74</sup>

“Preliminary plat” is a drawing of a proposed subdivision showing the general layout of streets and alleys, lots, blocks, and other elements of a subdivision consistent with the requirements of this Title. The preliminary plat shall be the basis for the approval or disapproval of the layout of a subdivision.”

~~17.28.020.44.~~**17.28.020.45. Public Way**<sup>75</sup>

“Public Way” means a dedicated street, easement allowing public access, and other forms of access open to the public.

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<sup>73</sup> This is a new definition added from RCW Title 58.

<sup>74</sup> This definition has been revised to match the definition in RCW Title 58.

<sup>75</sup> This is a new definition to clarify an existing term in 17.20.010.

~~17.28.020.45~~**17.28.020.46. Right-of-Way**

“Right-of-way” means land in which the state, county, city or other governmental entity owns the fee simple title or has an easement dedicated or required for a transportation or utility use. The right-of-way is the right to pass over the property of another. It refers to a strip of land legally established for the use of pedestrians, vehicles or utilities.

~~17.28.020.46~~**17.28.020.47. Road**

“Road” as defined in BIMC 12.38.

~~17.28.020.47~~**17.28.020.48. Short Plat**<sup>76</sup>

"Short plat" means the map or representation of a short subdivision.

~~17.28.020.48~~**17.28.020.49. Short Subdivision**

“Short subdivision” is the division or redivision of land into four or fewer lots, tracts (except tracts specifically reserved as open space), parcels or sites, for the purpose of sale, lease or transfer of ownership, except that the division or redivision of two or more existing lots into up to nine lots consistent with the procedures and standards contained in BIMC 17.12.030.A shall constitute a short subdivision if an applicant dedicates additional open space area pursuant to BIMC 17.12.030.A.5.

~~17.28.020.49~~**17.28.020.50. Significant Tree**

“Significant tree” shall have the meaning defined in BIMC 18.36.

~~17.28.020.50~~**17.28.020.51. Storm Water**

“Storm water” shall have the meaning defined in BIMC 15.20.

~~17.28.020.51~~**17.28.020.52. Street**

“Street” shall have the meaning defined in BIMC 18.36.

~~17.28.020.52~~**17.28.020.53. Testamentary Provisions**<sup>77</sup>

“Testamentary Provisions” means provisions of a last will or testament of a person who has died concerning land or property owned or controlled by that person, which provisions are generally carried out by an executor appointed by a court or public official on behalf of the deceased.

~~17.28.020.53~~**17.28.020.54. Wetland**

“Wetland” shall have that meaning defined in BIMC 16.20. (Ord. 2005-11 § 8, 2005; Ord. 2004-08 § 1, 2004; Ord. 2003-49 § 2, 2004; Ord. 2003-02 § 1, 2003; Ord. 98-20 § 13, 1998; Ord. 96-06B § 1, 1996)

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<sup>76</sup> This is a new definition from RCW.

<sup>77</sup> This is a new definition.