



City of Bainbridge Island

Public Review Draft of Module 3 Title 17



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March 2009

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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 is to:
- prevent the overcrowding of land;
 - to lessen congestion in the streets and highways;
 - to provide for adequate light and air;
 - to facilitate adequate provision for water, sewage, storm water drainage, parks and recreation areas, sites for schools and school grounds and other public requirements;
 - to provide for proper ingress and egress;
 - to provide a variety of housing opportunities; and
 - to maintain the quality of life of the city.
- C. Through this Title, the City will also allow for the subdivision of land for commercial, 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, where a controversy exists regarding the placement of a boundary line or where arranging or rectifying boundary lines is otherwise required.

- 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.¹ (Ord. 2003-49 § 1, 2004: Ord. 96-06B § 1, 1996) (Ord. 2003-02 § 12, 2003: Ord. 96-06B § 3, 1996)²

17.04.020 GENERAL PROVISIONS³

A. LOCATION OF SUBSTANTIVE STANDARDS

This Title 17 sets forth substantive standards for the layout and design of short, long, large lot, commercial, 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, commercial 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.⁴

C. COMPLIANCE WITH RCW TITLE 58

1. GENERAL

¹ The last sentence of this purpose statement is new.

² 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).

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

⁴ This reference to state law was added, since the details of those procedures are not being presented until module 4.

Every long, large lot, commercial or multifamily 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. 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 commercial 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 any applicable provisions of BIMC.⁵

2. SPECIFIC PROVISIONS⁶

Without limiting the generality of subsection 1 above, the Bainbridge Island subdivision regulations and all applications for short, long, large lot, commercial and multifamily subdivisions pursuant to those regulations shall be consistent with the following provisions of RCW Title 58.

RCW 17.58.033. Proposed division of land — Consideration of application for preliminary plat or short plat approval — Requirements defined by local ordinance.

(1) 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 completed application for preliminary plat approval of the subdivision, or short plat approval of the short subdivision, has been submitted to the appropriate county, city, or town official.

(2) The requirements for a fully completed application shall be defined by local ordinance. (3) The limitations imposed by this section shall not restrict conditions imposed under chapter 43.21C RCW.

RCW 58.17.060. Short plats and short subdivisions — Summary approval — Regulations — Requirements.

⁵ 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.

⁶ 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.

(1) The legislative body of a city, town, or county shall adopt regulations and procedures, and appoint administrative personnel for the summary approval of short plats and short subdivisions or alteration or vacation thereof. When an alteration or vacation involves a public dedication, the alteration or vacation shall be processed as provided in RCW 58.17.212 or 58.17.215. Such regulations shall be adopted by ordinance and shall provide that a short plat and short subdivision may be approved only if written findings that are appropriate, as provided in RCW 58.17.110, are made by the administrative personnel, and may contain wholly different requirements than those governing the approval of preliminary and final plats of subdivisions and may require surveys and monumentations and shall require filing of a short plat, or alteration or vacation thereof, for record in the office of the county auditor: PROVIDED, That such regulations must contain a requirement that land in short subdivisions may not be further divided in any manner within a period of five years without the filing of a final plat, except that when the short plat contains fewer than four parcels, nothing in this section 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 lots within the original short plat boundaries: PROVIDED FURTHER, That such regulations are not required to contain a penalty clause as provided in RCW 36.32.120 and may provide for wholly injunctive relief. An ordinance requiring a survey shall require that the survey be completed and filed with the application for approval of the short subdivision. (2) Cities, towns, and counties shall include in their short plat regulations and procedures pursuant to subsection (1) of this section provisions for considering sidewalks and other planning features that assure safe walking conditions for students who walk to and from school.

RCW 17.58.140. Time limitation for approval or disapproval of plats — Extensions.

Preliminary plats of any proposed subdivision and dedication shall be approved, disapproved, or returned to the applicant for modification or correction within ninety days from date of filing thereof unless the applicant consents to an extension of such time period or the ninety day limitation is extended to include up to twenty-one days as specified under RCW 58.17.095(3): PROVIDED, That if an environmental impact statement is required as provided in RCW 43.21C.030, the ninety day period shall not include the time spent preparing and circulating the environmental impact statement by the local government agency. Final plats and short plats shall be approved, disapproved, or returned to the applicant within thirty days from the date of filing thereof, unless the applicant consents to an extension of such time period. A final plat meeting all requirements of this chapter shall be submitted to the legislative body of the city, town, or county for approval within five years of the date of preliminary plat approval. Nothing contained in this section shall act to prevent any city, town, or county from adopting by ordinance procedures which would allow

extensions of time that may or may not contain additional or altered conditions and requirements.

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.⁷

E. APPLICATION MATERIALS

Materials required to be submitted with an application for a short or long subdivision, subdivision, large lot subdivision, commercial 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, which is available from the Department.

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)⁸

⁷ A cross-reference to state law limits on exactions has been added.

⁸ 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 APPLICABILITY⁹

17.08.010 APPLICABILITY

Unless excluded by BIMC 17.04.020 below, all short, long, large lot, commercial and multifamily subdivisions, as defined in BIMC 17.24, 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 17.24;
- 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. A boundary line adjustment pursuant to BIMC 17.16.
- F. 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

⁹ 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.

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".
- G. 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.
- H. Any division of land which is exempted from the scope of RCW 58 or its successors.¹⁰

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

17.12 SUBDIVISION DESIGN STANDARDS¹¹

This section sets forth standards for (1) short subdivisions, (2) long subdivisions, (3) large lot subdivisions, and (4) commercial 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.

Table 17.12-1: Subdivision Requirements by Type of Subdivision

Subdivision Standards Type of Subdivision	Open Space Flexible Lot Standards (Section 17.12.020.A)	Cluster Flexible Lot Standards (Section 17.12.020.B)	General Subdivision Standards (Section 17.12.030)	Commercial and Multifamily Standards (Section 17.12.040)	All Title 18 standards not modified by Title 17
Short Subdivision (1-4 Lots)					
Open Space Option	✓		✓		✓
Cluster Option		✓	✓		✓
Long Subdivision (4+ Lots)					
Open Space Option	✓		✓		✓
Cluster Option		✓	✓		✓
Large Lot Subdivisions			✓		✓
Commercial and Multifamily Subdivisions				✓	✓

¹¹ 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).

17.12.010 FLEXIBLE LOT DESIGN REQUIREMENT ¹²

A. REQUIREMENT¹³

All 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 or supporting infrastructure can be located on a subject property, no division of land is permitted. Development of the subject property shall be facilitated consistent with the requirements of BIMC 16.20.090, Reasonable Use Exception.

Some of the flexible lot design requirements are outlined in this Title 17 and 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 to assist applicants in the preparation of flexible subdivision designs and applications for residential subdivisions. The Flexible Lot Design Handbook shall not be part of the ordinance codified in this Title and shall contain no requirements separate from the text of this Title.

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 may choose to comply with the standards in this Title 17 applicable to Open Space Flexible Lot 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 of the parcel or 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.¹⁴

¹² STAFF: Since you now require flex lots for all subdivisions, we suggest we drop the word "flex" and just call them "open space subdivision" and "cluster subdivision" and call earlier subdivisions "pre-existing" subdivisions.

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

¹⁴ This paragraph reflects current city practice.

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. As an alternative to open space or cluster flexible lot design, applicants may choose to design a large lot subdivision. Large lot subdivisions shall comply with the requirements of BIMC 17.12.030 (General Residential Subdivision Standards), the requirements of BIMC 17.12.050 (Special Provisions for Sensitive Areas), if applicable, and the requirements of Title 18 for the zone district in which the property is located.¹⁵

E. APPLICATION MATERIALS

Each applicant for a short or long subdivision or a large lot subdivision shall file an application on forms provided with the city, and shall include all application materials required by the city for that type of application, as documented in the Bainbridge Island Administrative Manual or the Flexible Lot Design Handbook maintained by the city. All requirements for application materials shall be adopted by ordinance, as required by RCW 58.17.033(2) or its successors.¹⁶ The city may maintain separate lists of application materials for preliminary and final approvals and for different types of land divisions.

17.12.020 OPEN SPACE/CLUSTER STANDARDS AND HOMESITE LOCATIONS

All short and long subdivisions in the R-0.4, R-1, R-2, R-2.9, R-3.5, and R-4.3 zone districts¹⁷, except large lot subdivisions, shall comply with the standards in either subsection A or B below, and shall also comply with the standards of BIMC 17.12.030 (General Subdivision Standards) and with the standards of BIMC 17.12.050 (Special Requirements for Sensitive Areas) as applicable. The standards of this section 17.12.020 address the location and design of open spaces, and all open space and cluster short and long subdivisions shall locate homesites and other facilities so as to avoid the open spaces designated pursuant to these standards.

¹⁵ This new paragraph clarifies current practice.

¹⁶ The reference to state law has been added.

¹⁷ Single-family subdivisions in the R-8 and R-14 zones are currently exempt from flexible lot design and open space standards, but staff is consulting with the Ad Hoc Committee as to whether this exclusion is consistent with the comprehensive plan or whether these two additional districts should be included.

A. OPEN SPACE SHORT OR LONG SUBDIVISIONS¹⁸

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) below.

1. OPEN SPACE OBJECTIVES

Open space should accomplish one or more of the following objectives:

- 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;
- 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.

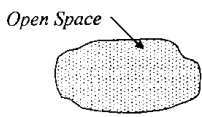
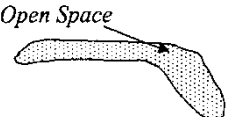
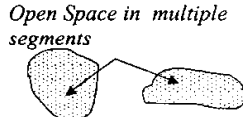
2. OPEN SPACE DESIGN GUIDELINES

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
- b. Open space should connect to adjacent off-site open space areas, designated greenways and/or critical areas;
- c. Open space should be designed to preserve views from off-site of the subject property;
- d. The area of the open space should be delineated with a low perimeter to area ratio as shown by the examples in Table 17.12.020-1 below.¹⁹

¹⁸ These provisions are combined from current code 17.04.075.C, 17.04.082, 17.12.____ and 17.12.092.

¹⁹ 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

Table 17.12.020-1 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)
		

3. PRIORITIZATION OF VALUED OPEN SPACE

The relative desirability of different types of open space is ranked in Table 17.12.020-2 below, and proposed open space subdivisions shall design open spaces to include areas with higher priority rankings if possible. 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 17.12.020-2, the protected open space should be designed to include those areas contiguous to valued open space features on adjacent properties. If a proposed subdivision does not contain land in any of the categories shown in Table 17.12.020-2, and the creation of clustered lots would result in fewer impacts on the open space character of the surrounding area, the Director may require that the applicant pursue a Cluster long or short subdivision pursuant to BIMC 17.12.020.B rather than an Open Space long or short subdivision pursuant to this subsection A.²⁰

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.

²⁰ The introductory paragraph for the existing long subdivision table is now used (with rewording for clarity) for both short and long subdivisions. The last two sentences are new provisions to address issues that are not addressed by the current code in order to help implement the intent of the Comprehensive Plan and protect Island character. This proposed change is being reviewed with the Ad Hoc Committee.

	Open Space Feature	Notes
1.	Critical Areas (as defined in BIMC 16.20), Areas Contiguous with Critical Areas and their Buffers and Wildlife Corridors	All critical areas and their associated buffers shall be preserved and designated wildlife corridors as adopted by Resolution 2001-12 should 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.	Mature Vegetation on Ridgelines	Mature vegetation found on ridgelines of community significance (as viewed from off-site) should be preserved.
4.	Pastures, Meadows, Orchards, and Farmland	Pastures, farmland and land areas currently or traditionally used in agriculture should be preserved. Where possible, the size and configuration of pasture and farmland areas should permit commercially viable farming ²²
5.	Trails and Greenways	Trails and greenways should be preserved.
6.	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.

²¹ 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. In addition, the introductory paragraph for the existing long subdivision table is now used (with rewording for clarity) for both short and long subdivisions.

²² Reworded for clarity

4. AMOUNT OF OPEN SPACE REQUIRED²³

- a. **Basis.** In determining the open space area requirement stated in subsection 4.b below, 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 17.12.020–2 above) on the subject property, up to a maximum of 25 percent of the area of the property being subdivided, unless additional open space area is otherwise provided pursuant to subsection 5 (Open Space Incentives) below. If a property being subdivided contains valued open space features as described in Table 17.12.020–2 that exceed 25 percent of the gross land area, the maximum required area for open space designation is 25 percent, unless it includes protected critical area as regulated by BIMC 16.20.²⁴ 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.²⁵ Landscape buffers may be included in the open space calculation as specified in BIMC Table 18.15.010–2.²⁶

²³ 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.

²³ The reference to state law has been added.

²⁴ Staff is checking with the city attorney as to whether this existing sentence should be retained.

²⁵ 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 maximum required open space for long subdivisions has been reduced from 30% to 25% to match current city practice, which are the same for 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.

²⁶ This cross-reference may change once the previous subdivision vegetative buffer standards are integrated with other landscape standards in 18.15.010.

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 above, then a short subdivision may include the division or redivision of two or more existing lots into 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 in addition to the 25 percent²⁷ required by subsection 4 above, 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 if the dwelling unit to be constructed on the lot is restricted in size as follows:
- i. The minimum lot area may be reduced to 4,000 square feet if the dwelling unit footprint for that lot is no greater in size than 1,600 square feet.
 - ii. The minimum lot area may be reduced to 3,600 square feet if the dwelling unit footprint for that lot is no greater than 1,400 square feet.²⁸
 - iii. 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.
 - iv. The above restrictions shall be noted on the face of the plat for each lot.

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, 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

²⁷ The trigger for open space incentives for long subdivisions has been reduced from 30% to 25% to match current city practice, which are the same for short and long subdivisions..

²⁸ The wording of subsections i and ii has been revised to clarify that the size parameters refer to building footprint, not total building size.

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.²⁹ 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 or critical areas regulations of BIMC 16.20 restrict such use):

- a. Passive recreation, including pervious trails;
- b. Agricultural uses and fencing necessary for animal control, excepting those agricultural uses that require buildings³⁰;
- c. Potable water wells and well houses;
- d. Low impact fencing or signs marking the open space boundary or critical area boundary;³¹
- e. Septic 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 Bremerton-Kitsap County Health District, and (3) construction of the system will not require the removal of significant trees,

²⁹ 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).

³⁰ This standard now applies to both temporary and permanent buildings.

³¹ This provision now covers fencing of critical areas as well as opens spaces.

native forests or vegetation within a required buffer for designated critical areas subject to BIMC 16.20.³²

- f. Storm drainage 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 meets the design standards of BIMC 15.20 and 15.21, including low impact development designs, and (3) 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 2:1³³ for any above ground storm detention facilities; and
 - ii. Riparian vegetation will be provided in conjunction with the storm drainage facility; 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 17.12.020.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.
- g. Playgrounds and tot lots, picnic shelters and benches, community gardens, bus shelters, community art, or fountains may be allowed within a designated open space area, provided the proposed use will not adversely affect the function or characteristics of the specific open space.³⁴
- h. Solar Panels, Small Wind Energy Generators, Composting Bins, Rainwater Harvesting Barrels, and Raingardens/Swales, as defined in BIMC18.36.

8. OPEN SPACE FENCING AND MANAGEMENT STANDARDS

The following fencing and management standards apply to designated open space areas. In addition to the standards listed in this subsection 8, designated open

³² 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.

³³ For accuracy, 1:2 ratio was changed to 2:1 per the Diagnosis.

³⁴ This provision was extended to apply to short as well as long subdivisions and to include bus shelters and community art. These changes will be discussed with the Ad Hoc before being finalized.

spaces containing sensitive areas shall comply with any additional management standards required to protect those areas pursuant to BIMC 17.12.050, Title 16.12 (Shoreline Management Master Program) and Title 16.20 (Critical Areas) as applicable.

- a. **Fencing Required.** Fences and/or signs delineating open space and critical area buffers are required. The Director shall determine whether fencing or signs are required, based on the likelihood of encroachment into designated open space areas. If fencing is required, low impact fences are preferred, and required fences may be either split rail or horse-rail fencing not higher than five (5) feet in height. If signs are required, the signs shall be made of metal, shall be between 64 and 144 square inches in size, and shall be mounted in one or more locations specified by the director.³⁵ 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 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.

³⁶

- 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 OSMP shall include a list of all approved uses for the open space areas. Where a variety of uses are permitted, the specific location of each use shall be depicted graphically. The OSMP shall include 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.³⁷ In the event that the open space area is not maintained consistent with the OSMP, 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 SUBDIVISIONS³⁸

³⁵ These provisions have been reworded for clarity and now include a maximum (as well as minimum) size.

³⁶ Reworded for clarity, and the duty of maintenance and replacement has been added.

³⁷ 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.

³⁸ This section is carried over from current code 17.04.075.A.5, but has been reordered and reworded for clarity.

If an applicant chooses to apply for a Cluster short or long subdivision, the Open Space provisions of subsection A above 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 in a flexible lot design subdivision.

- a. Four or more homesites shall constitute a cluster grouping in a long subdivision, and two or more homesites shall constitute a cluster grouping in a short subdivision.
- b. All homesites in a cluster grouping shall adjoin or be located a maximum of 25 feet apart from another homesite.³⁹

2. HOMESITE AREA

- a. 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.
- b. 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.
- c. The homesite area is for development of the primary residential dwelling and accessory buildings for each lot within the subdivision.
- d. 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.⁴⁰

³⁹ This provision has been revised to remove exceptions based on fire safety based on past experience.

⁴⁰ This provision has been expanded by adding a reference to well houses.

- e. Designated homesites shall not include designated critical areas or their buffers.⁴¹
- f. Fencing or signage of designated open spaces and critical areas shall be required pursuant to BIMC 17.12.020.A.8.a.

17.12.030 GENERAL RESIDENTIAL SUBDIVISION STANDARDS⁴²

All short and long subdivisions 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.⁴³ Subdivisions including sensitive areas or their required buffers shall also comply with the provisions of BIMC 17.12.050.

B. HOMESITES

Residential homesites shall be located consistent with the design methodology prescribed in the Flexible Lot Design Handbook. Where possible, subdivisions shall be designed so that at least fifty (50) percent of the homesites are aligned so that the longer axis of the house can be within fifteen (15) degrees of east-west in order to improve solar access.⁴⁴

⁴¹ New provision for consistency with BIMC 16.20.

⁴² 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.

⁴³ 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.

⁴⁴ The second sentence is a new provision to promote sustainability and will be reviewed with the Ad Hoc Committee before being finalized.

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.

E. ROADS AND PEDESTRIAN ACCESS⁴⁵

1. Roads and access complying with the “City of Bainbridge Island Design and Construction Standards and Specifications” and all applicable requirements of 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 [REDACTED] process described in BIMC Title 2.
3. Existing roadway character shall be maintained where practical. This may be accomplished through the reduction of roadway width consistent with subsection E.2 above, 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. ⁴⁶

⁴⁵ Most of these provisions are carried over and reworded from current code 17.04.080, 17.12.090, and 17.16.070. Because we have devoted a section of Title 18 (18.15.040) to “Mobility and Access” these provisions will be moved to Title 18 in the final land use code and a cross-reference used here so that all provisions related to Mobility and Access can be found in one location.

⁴⁶ 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.

5. Street names, traffic regulatory signs and mailboxes shall be provided. The location of these shall be indicated on the plat/plan.
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.

F. NO CITY MAINTENANCE OF STREETS IN SHORT SUBDIVISIONS⁴⁷

Streets within a short subdivision shall not be maintained by the city unless such streets have been 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.

17.12.040 COMMERCIAL AND MULTIFAMILY SUBDIVISION⁴⁸

Subdivisions established for commercial and multifamily residential uses shall comply with each of the following:

- A. All provisions of BIMC RCW Title 58 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.⁴⁹

⁴⁷ This provision is carried over from current code 17.04.200, but is being checked with the City Engineer for accuracy.

⁴⁸ 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, (3) bicycle and pedestrian access, and (4) open space options. Since topics (1), (2), and (3) are now covered in Title 18 and topic (4) is unnecessary (they open space options remain available under revised 17.12 without restating them in this section, this section is being replaced with a simple cross-reference to Title 18.

⁴⁹ 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.

17.12.050 SPECIAL REQUIREMENTS FOR SENSITIVE AREAS⁵⁰

A. CRITICAL AREAS

1. Any portion of a short or long subdivision, large lot subdivision, commercial 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 short or long subdivision, large lot subdivision, commercial or multifamily subdivision shall comply with the fencing and signage requirements of BIMC 17.12.020.A.8.a or 17.12.020.B.2.f, as applicable.
3. When required by RCW 36.70A.060 or its successors, the final short or long subdivision, large lot subdivision, commercial 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, commercial 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.

⁵⁰ 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 formalize boundary between platted or unplatted lots or both that do not create any additional lot, tract, parcel, site or division of land nor create any lot, tract, parcel, site, or division that contains insufficient area and dimension to meet minimum requirements for width and area for a building site; Boundary line adjustments within approved subdivisions shall be completed pursuant to the procedures and decision criteria set forth in Title 2 (Administration and Personnel)

DRAFT

17.20 DEDICATIONS OF LAND

17.20.010 GENERAL⁵¹

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 FACILITIES⁵²

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, commercial subdivision, or approval of any permit issued under the Uniform Building Code for the development of a multifamily residential development or mobile home park 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.⁵³(Ord. 84-09 § 1, 1984)

B. APPLICABILITY

⁵¹ 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.

⁵² 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.

⁵³ The reference to state law has been added.

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)

C. 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 in 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)⁵⁴

D. 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 commercial 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.⁵⁵

E. CREDIT FOR DEDICATION REQUIREMENT⁵⁶

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

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

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

⁵⁶ This section will be cross-references in both Title 18 and 2 to clarify its applicability in the Site Plan Review and Conditional Use Permit process.

against the amount of land which the city determines should be dedicated pursuant to subsection D above, 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.
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.8.⁵⁷
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.
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.
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)

E. 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.
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.

⁵⁷ 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.

3. All recording costs shall be borne by the applicant. (Ord. 84-09 § 4(C), 1984)

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17.24 ENFORCEMENT AND PENALTIES⁵⁸

17.24.010 ILLEGALLY DIVIDED LAND⁵⁹

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;
- 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

⁵⁸ 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. STAFF: We had a note in the Diagnosis that you were going to provide additions or refinements to the enforcement powers. Please forward that language if you have it.

⁵⁹ STAFF: These provisions on illegally subdivided land were parallel except that the large lot provisions require an application to council rather than to the department and hearing officer. We made them consistent by making all three go to the department and hearing officer.

addition, the city may impose any additional penalties for violations authorized by Title 58.⁶⁰

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 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, commercial 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. 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)⁶¹
 2. The city may enforce compliance with this Title 17 through any methods described in BIMC 18.36.
- 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 enforce authorized by Title 58.⁶²

⁶⁰ This is a new provision to ensure consistency with state subdivision law.

⁶¹ These provisions were extended to cover commercial and multifamily subdivisions as well as residential subdivisions.

⁶² This is a new provision to ensure consistency with state subdivision law.

17.28 DEFINITIONS⁶³

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 generally have greater traffic carrying capacity than collector or local streets and are designed for continuously moving traffic.⁶⁴

17.28.020.2 Block

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

17.28.020.3 Buffer⁶⁵

“Buffer” as defined in BIMC 18.36.

17.28.020.4 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.

17.28.020.5 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 17.12.020.B.

⁶³ 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).

⁶⁴ Revised definition to replace a general reference to the comprehensive plan.

⁶⁵ The existing definitions of Buffer in Titles 17 and 18 are very similar, so the Title 18 definition is now cross-referenced. It will read: ‘Buffer’ means space, either landscaped or existing or natural vegetation, intended to reduce the impact of undesirable sights, sounds, odors, and/or to protect critical areas. Buffers protecting critical areas shall be as defined in BIMC 16.20.”

17.28.020.6 Code

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

17.28.020.7 Collector

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

17.28.020.8 Comprehensive Plan⁶⁶

“Comprehensive plan” as defined in BIMC 18.36.

17.28.020.9 Contiguous Land

“Contiguous land” means land adjoining and touching other land and having the same owner 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.⁶⁷

17.28.020.10 Critical Areas

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

17.28.020.11 Dedication⁶⁸

“Dedication” means the deliberate appropriation of land by an owner for any general and public uses, reserving to the owner no other rights than such as are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted. 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 commercial or multifamily subdivision showing the dedication. Acceptance of the filing shall be by approval of the final plat by the city.

17.28.020.12 Department⁶⁹

“Department” as defined in BIMC 18.36.

17.28.020.13 Director

“Director” as defined in BIMC 18.36.

17.28.020.14 Division

⁶⁶ 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.

⁶⁷ Last clause revised for clarity.

⁶⁸ This provision has been revised to clarify that it applies to all types of subdivisions.

⁶⁹ Existing definitions for Department and Director have been replaced by cross-references to similar or identical definitions in Title 18.

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

17.28.020.15 Easement

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

17.28.020.16 Farm and Farmland

“Farms and farmland” mean land used for Crop Agriculture or Livestock Agriculture, as those terms are defined in BIMC 18.36.⁷⁰

17.28.020.17 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.

17.28.020.18 Flexible Lot Design

“Flexible lot design” is the design process the city uses which 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 which 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.

17.28.020.19 Footprint

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

17.28.020.20 Health District

“Health district” means the Bremerton-Kitsap County Health District.

17.28.020.21 Hearing Examiner

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

17.28.020.22 Homesite Area

⁷⁰ Revised to replace cross-reference to Title 16 with a cross-reference to updated agricultural terms in Title 18.

“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.⁷¹

17.28.020.23 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 which 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.

17.28.020.24 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.

17.28.020.25 “Laws of Descent”⁷²

“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.

17.28.020.26 Long Subdivision⁷³

“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.

17.28.020.27 Low-Impact Fencing⁷⁴

“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.

17.28.020.28 Lot

“Lot” means a lot as defined in BIMC Title 2.

⁷¹ Revised to expand definition of areas covered to include all accessory structures and infrastructure.

⁷² This is a new definition.

⁷³ This is the current definition of “subdivision” renamed to reflect the new labels used throughout Title 17.

⁷⁴ This is a new definition.

17.28.020.29 Meadow

"Meadow" means an open, nonforested area formed by the land's natural features and events of nature.

17.28.020.30 Native Forest

"Native forest" means established forest areas consisting of native trees and plants.

17.28.020.31 Native Vegetation

"Native vegetation" as defined in BIMC 18.36.

17.28.020.32 Off-Site Views or Views from Off-Site

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

17.28.020.33 Open Space

"Open space" means any area of land which is predominately undeveloped and which 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 which 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.

17.28.020.34 Orchard

"Orchard" means a group of cultivated trees, primarily fruit or nut producing.

17.28.020.35 Pasture

"Pasture" means land used for grazing.

17.28.020.36 Plat⁷⁵

"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.

17.28.020.37 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.

⁷⁵ This is a new definition added from RCW Title 58.

17.28.020.38 Preliminary Plat⁷⁶

"Preliminary plat" is a neat and approximate 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 general layout of a subdivision."

17.28.020.39 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.

17.28.020.40 Road

"Road" as defined in BIMC 12.38.

17.28.020.41 Short Plat⁷⁷

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

17.28.020.42 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 17.12.020.A shall constitute a short subdivision if an applicant dedicates additional open space area pursuant to BIMC 17.12.020.A.5.

17.28.020.43 Significant Tree

"Significant tree" shall have the meaning defined in BIMC 18.36.

17.28.020.44 Storm Water

"Storm water" as defined in BIMC 15.20.

17.28.020.45 Street

"Street" shall have the meaning defined in BIMC 18.36.

17.28.020.46 Testamentary Provisions⁷⁸

⁷⁶ This definition has been revised to match the definition in RCW Title 58.

⁷⁷ This is a new definition from RCW.

⁷⁸ This is a new definition.

“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.

17.28.020.47 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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