

**ORDINANCE NO. 18-0523**

**AN ORDINANCE OF THE CITY OF EDGEWOOD, WASHINGTON, RELATING TO SUBDIVISIONS, ADDING PROCEDURES FOR ALTERATIONS AND VACATIONS OF APPROVED SUBDIVISIONS AND APPROVED BINDING SITE PLANS, DESCRIBING THE ELEMENTS OF A COMPLETE APPLICATION, CRITERIA FOR APPROVAL, EFFECT OF APPROVAL AND REQUIREMENTS FOR RECORDING, PURSUANT TO RCW 58.17.212 AND 58.17.215, ADDING A NEW CHAPTER 16.07 TO THE EDGEWOOD MUNICIPAL CODE.**

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**WHEREAS**, the Washington Subdivision Act (hereinafter the “Act”) includes provisions and procedures for a vacation of subdivision and an alteration of subdivision under RCW Section 58.17.212 and 58.17.215, respectively; and

**WHEREAS**, the Act also allows municipalities to adopt procedures for binding site plans, consistent with RCW Section 58.17.035; and

**WHEREAS**, the City of Edgewood has adopted development regulations applicable to plats and binding site plans but does not have any procedures for the vacation and alteration of approved short plats, full subdivision plats, and binding site plans; and

**WHEREAS**, the City’s SEPA Responsible Official has determined that this Ordinance is categorically exempt from SEPA as affecting only procedural and no substantive standards, pursuant to WAC Section 197-11-800(19); and

**WHEREAS**, on February 6, 2018, the Washington State Department of Commerce sent confirmation to the City that the procedural requirements in RCW 36.70A.106(1) were met; and

**WHEREAS**, on February 26, 2018, the Planning Commission held a public hearing on this Ordinance and made a recommendation of **APPROVAL** to the City Council; and

**WHEREAS**, the City Council held a public hearing on April 24, 2018 and considered this Ordinance during its regular City Council meeting on May 8, 2018; Now, Therefore,

THE CITY COUNCIL OF THE CITY OF EDGEWOOD, WASHINGTON, ORDAINS AS FOLLOWS:

Section 1. A new Chapter 16.07 is hereby added to the Edgewood Municipal Code (EMC), which shall read as follows:

**Chapter 16.07  
Subdivision Vacations and Alterations**

**Sections:**

- 16.07.010 Purpose.**
- 16.07.020 Administration.**
- 16.07.030 Procedure.**
- 16.07.040 Additional Notice of Public Hearing**
- 16.07.050 Requirements for a Complete Application.**
- 16.07.060 Criteria for Approval.**
- 16.07.070 Time Limitation for Final Decision.**
- 16.07.080 Recording.**
- 16.07.090 Alterations to a Short Subdivision.**

**16.07.010 Purpose.** The purpose of this chapter is to regulate and allow vacations or alterations of approved short plats, full subdivision plats, and binding site plans. It does not allow modification or revision of recorded Boundary Line Adjustments (BLA), preliminary subdivision approvals, or preliminary binding site plans. The procedure for vacation of plats does not apply to the vacation or alteration of any plat of state-granted tide or shore lands.

When the vacation application is specifically for a city street, the procedures for street vacations in RCW 35.79 RCW shall be utilized for the street vacation. When the application is for the vacation of the plat or binding site plan together with the roads or streets, the procedure for

vacation in this chapter shall be used, but vacations of streets subject to RCW 35.79.035 may not be made under this procedure.

**16.07.020 Administration.** The Director is authorized and directed to administer the provisions of this chapter. The authority to approve, approve with conditions, or deny an approved plat or a final binding site plan vacation or alteration is granted to the Hearing Examiner after a public hearing.

**16.07.030 Procedure.** Steps 16.07.030.A-I shall be followed in the processing of approved plat or final binding site plan vacation or alteration applications and administrative appeals shall be heard by City Council. See EMC Section 16.07.090 for Alterations to a Short Subdivision.

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|----|----------------------|--|
| A. | EMC 18.40.150        | Determination of Complete Application; |
| B. | EMC 18.40.180        | Notice of Application;                 |
| D. | EMC 20.05            | SEPA (if required);                    |
| C. | EMC 18.30.050        | Determination of Consistency;          |
| E. | EMC 18.40.190        | Notice of Public Hearing;              |
| F. | EMC 18.40.100(K)     | Preparation of Staff Report;           |
| G. | EMC 18.40.100(L)     | Public Hearing;                        |
| H. | EMC 18.40.100(Q – R) | Notice of Decision; and                |
| I. | EMC 18.40.100(T)     | Hearing Examiner Appeal.               |

**16.07.040 Additional Notice of Public Hearing.** In addition to the notice required in EMC Section 16.07.030.E, the City shall provide notice of an application for a full subdivision or binding site plan vacation or alteration to all owners of property within the subdivision not included in the application, as provided for in RCW 58.17.080 and RCW 58.17.090. The notice shall establish the date of the public hearing.

**16.07.050 Requirements for a Complete Application.**

- A. The following materials shall be submitted to the City for a complete full subdivision or binding site plan Vacation Application:
1. Date, name, address, and telephone number of the applicant or property owner;
  2. The reason(s) for the proposed vacation;
  3. Signatures of all parties having an ownership interest in the subdivision or that portion of the subdivision proposed to be vacated;
  4. If the plat or binding site plan is subject to restrictive covenants which were filed at the time of the approval of the plat, and the application for the vacation would result in the violation of a covenant, the application shall include an agreement signed by all parties subject to the covenants, which provides that the parties agree to terminate or alter the restrictive covenants to accomplish the purpose of the vacation of the plat or portion thereof;
  5. Acknowledgement that if any street is included in the application for a vacation, that the applicant shall be required to pay the amount contemplated in RCW 35.79.030, if the vacation is granted pursuant to EMC Section 12.05.015;

6. A copy of the approved plat or binding site plan sought to be vacated, together with all plat or binding site plan amendments or vacations recorded since the date of the original approval;

7. A recent (120 days) title report for each of the properties affected by the vacation that confirms the owner(s) signing the application hold title of the lands described and shown in the application area; and

8. If the vacation is for a portion of the plat or binding site plan, the applicant must demonstrate that the partial vacation will not violate the terms of plat or binding site plan approval or this Chapter.

9. Electronic version of all submittal documents, in a format acceptable to the City.

10. An application fee.

B. The following materials shall be submitted to the City for a complete full subdivision or binding site plan Alteration Application.

1. Date, name, address, and telephone number of the applicant or property owner;

2. The reason(s) for the proposed alteration;

3. Signatures of the majority of those persons having an ownership interest in the lots, tracts, parcels, sites, or divisions in the plat or binding site plan proposed to be altered;

4. If the plat or final binding site plan is subject to restrictive covenants which were filed at the time of the approval of the plat or final binding site plan, and the application for the alteration would result in the violation of a covenant, the application shall contain an agreement signed by all parties subject to the covenants, providing that the parties agree to terminate or alter the relevant covenants to accomplish the purpose of the alteration of the plat or final binding site plan;

5. A copy of the approved plat or final binding site plan sought to be altered, together with all recorded plat or binding site plan amendments or vacations; and

6. A recent (120 days) title report for each of the properties affected by the alteration that confirms the owner(s) signing the application hold title of the lands described and shown in the application area.

7. If the alteration is for a portion of the plat or final binding site plan, the applicant must demonstrate that the alteration will not violate the terms of plat or final binding site plan approval, or this Chapter.

8. An electronic version of all submittal documents, in a format acceptable to the City.

9. An application fee.

C. The following materials shall be submitted to the City for a complete Short Plat Alteration:

1. Date, name, address, and telephone number of the applicant or property owner;

2. The reason(s) for the proposed alteration;

3. Signatures of the majority of those persons having an ownership interest in the lots, tracts, parcels, sites, or divisions in the Short Plat proposed to be altered;

4. If the Short Plat is subject to restrictive covenants which were filed at the time of the approval of the Short Plat, and the application for the alteration would result in the

violation of a covenant, the application shall contain an agreement signed by all parties subject to the covenants, providing that the parties agree to terminate or alter the relevant covenants to accomplish the purpose of the alteration of the Short Plat;

5. A copy of the approved Short Plat sought to be altered, together with all previously recorded Short Plat amendments; and

6. A recent (120 days) title report for each of the properties affected by the alteration that confirms the owner(s) signing the application hold title of the lands described and shown in the application area.

7. If the alteration is for a portion of the Short Plat, the applicant must demonstrate that the alteration will not violate the terms of Short Plat approval, or this Chapter.

8. An electronic version of all submittal documents, in a format acceptable to the City.

9. An application fee.

### **106.07.060 Criteria for Approval.**

#### **A. Vacation Criteria for a full subdivision or binding site plan.**

1. *Vacation.* The plat or binding site plan vacation may be approved, approved with conditions or denied after a written determination is made whether the public use and interest will be served by the vacation. The decision shall be supported by written findings and conclusions. If any portion of the land contained in the plat or binding site plan was dedicated to the public for public use and benefit, such land, if not already deeded to the City, shall be deeded to the City as a condition of approval, unless the decision-maker makes findings that the public use would not be served in retaining title to those lands. Easements established by a dedication are property rights that cannot be extinguished or altered without the approval of the easement owner or owners, unless the plat, binding site plan or other document creating the dedicated easement provides or an alternative method or methods to extinguish or alter the easement.

2. *Street Vacation.* When the vacation application is specifically for vacation of a City street, the procedures in EMC Section 12.05.015 and the procedures in RCW Chapter 35.79 shall be utilized. When the procedure is for the vacation of a plat or binding site plan together with the streets, the vacation procedure in this chapter shall be used, but this procedure cannot be used to vacate streets if prohibited under RCW Section 35.79.035 or the City's street vacation ordinance.

3. *Title to Vacated Property.* Title to the vacated property shall vest with the rightful owner as shown on the county records. If the vacated land is land that was dedicated to the public, for public use other than a road or street, and the decision maker has found that retaining title to the land is not in the public interest, title thereto shall vest with the person(s) owning the property on each side thereof, as determined by the decision maker. When the road or street that is to be vacated is contained wholly within the plat or binding site plan, and is part of the boundary of the subdivision or binding site plan, title to the vacated road or street shall vest with the owner(s) of property contained within the vacated subdivision or binding site plan.

- B. Alteration Criteria for a full subdivision or binding site plan.
1. The alteration may be approved, approved with conditions or denied after a written determination is made whether the public use and interest will be served by the alteration. The decision shall be supported by written findings and conclusion.
  2. If any land within the alteration area is part of an assessment district, any outstanding assessments shall be equitably divided and levied against the remaining lots, parcels or tracts, or be levied equitably on the lots resulting from the alteration.
  3. If any land within the alteration contains a dedication to the general use of persons residing within the subdivision, such land may be altered and divided equitably between the adjacent properties.

**16.07.070 Time Limitation for Final Decision.** A full subdivision or binding site plan vacation or alteration application shall be approved, approved with conditions, or denied within one hundred-twenty (120) days after a complete application has been submitted, unless the applicant consents in writing to an extension of the 120-day time period.

**16.07.080 Recording.** After approval of the alteration or vacation, the City shall order the applicant to produce a revised drawing of the approved full subdivision or binding site plan alteration or vacation. The Council shall authorize the Mayor to sign the approved alteration or vacation. The City shall file the approved alteration or vacation with the County auditor at the applicant's cost. The alteration or vacation shall replace and supersede the existing lawful plat or final binding site plan for the property.

**16.07.090 Alterations to a Short Subdivision**

- A. General Requirements.
1. Short subdivision alterations apply to those elements which are common to the entire plat.
  2. An alteration to a portion of a recorded short plat replaces and supersedes the portion of the original short plat that is contained in the alteration.
  3. Additional lots cannot be added except pursuant to RCW Section 58.17.060.
- B. Required Written Findings and Determinations.
1. The Director shall inquire into the public use and interest proposed to be served by the establishment of the alteration, if any.
  2. The application shall follow the Process II Administrative Action procedures pursuant to EMC Section 18.40.070.
  3. A proposed short subdivision alteration shall not be approved unless the Director makes written findings that:
    - a. The alteration conforms to the requirements of RCW Chapter 58.17 and the provisions of this Title;
    - b. The items to be altered do not conflict with the goals and policies of the Comprehensive Plan, applicable community plan(s), and any applicable EMC or state laws; and

c. The public use and interest will be served as a result of the proposed alteration.

C. Approval.

1. The Director has the authority to approve or deny any proposed short subdivision and may impose additional or altered conditions and requirements as necessary to assure that the proposal conforms to the Comprehensive Plan, applicable community plan(s), other applicable EMC provisions, state laws, and the criteria contained in this Section.

2. Approvals shall include a note that states: "This altered short plat supersedes Lot(s) \_\_\_\_\_ of Short Plat No. \_\_\_\_\_" and a brief written narrative explaining what is being altered and the reason for such alteration, including identification of the specific change(s) to the recorded document.

3. Appeals from the decision of the Director or designee will be heard by the Hearing Examiner.

D. Recording.

1. After approval of the alteration, the City shall order the applicant to produce a final drawing for signatures and recording.

2. The same department signature blocks shall be provided on the proposed plat alteration as those listed on the original document.

3. The final document for recording shall be signed by the property owner(s).

4. The City shall file the approved alteration with the County auditor at the applicant's cost. The alteration shall replace and supersede the existing lawful Short Plat for the property.

Section 2. Publication.

This Ordinance shall be published by an approved summary consisting of the title.

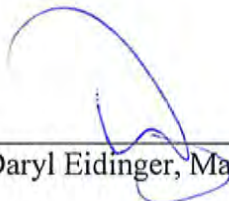
Section 3. Severability.

If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this Ordinance.

Section 4. Effective Date.

This Ordinance shall become effective five (5) days after publication as provided by law.

ADOPTED by the City Council of the City of Edgewood, signed by the Mayor and attested by the City Clerk in authentication of such passage on this 8<sup>th</sup> day of May, 2018.



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Daryl Eiding, Mayor

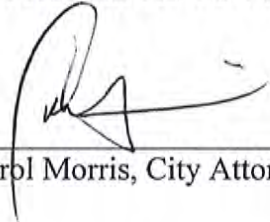
ATTEST/AUTHENTICATED:



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Rachel Pitzel, City Clerk

APPROVED AS TO FORM:



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Carol Morris, City Attorney

*Published: May 10, 2018*  
*Effective: May 15, 2018*



**EDGEWOOD PLANNING COMMISSION RECOMMENDATION:**

**RECOMMENDATION OF THE CITY OF EDGEWOOD PLANNING COMMISSION RELATING TO SUBDIVISIONS, ADDING PROCEDURES FOR ALTERATIONS AND VACATIONS OF APPROVED SUBDIVISIONS AND APPROVED BINDING SITE PLANS, DESCRIBING THE ELEMENTS OF A COMPLETE APPLICATION, CRITERIA FOR APPROVAL, EFFECT OF APPROVAL, AND REQUIREMENTS FOR RECORDING, PURSUANT TO RCW 58.17.212 AND 58.17.215, ADDING A NEW CHAPTER 16.07 TO THE EDGEWOOD MUNICIPAL CODE.**

**WHEREAS**, the Washington Subdivision Act (hereinafter the “Act”) includes provisions and procedures for a vacation of subdivision and an alteration of subdivision under RCW Section 58.17.212 and 58.17.215, respectively; and

**WHEREAS**, the Act also allows municipalities to adopt procedures for binding site plans, consistent with RCW Section 58.17.035; and

**WHEREAS**, the City of Edgewood has adopted development regulations applicable to plats and binding site plans but does not have any procedures for the vacation and alteration of approved short plats, full subdivision plats, and binding site plans; and

**WHEREAS**, the City’s SEPA Responsible Official has determined that this Ordinance is categorically exempt from SEPA as affecting only procedural and no substantive standards, pursuant to WAC Section 197-11-800(19); and

**WHEREAS**, on February 6, 2018, the Washington State Department of Commerce sent confirmation to the City that the procedural requirements in RCW 36.70A.106(1) were met; and

**WHEREAS**, the Planning Commission held a Public Hearing to receive public testimony regarding the Proposed Code Amendment at their February 26, 2018 meeting; and

**NOW, THEREFORE, IT SHALL BE ADVISED** that the Planning Commission hereby makes the following recommendations:

1. The Planning Commission reviewed the proposed amendments to the development regulations and recommends City Council APPROVE, AS PRESENTED the proposal to add Chapter 16.07 to the Edgewood Municipal Code (EMC).

**THIS RECOMMENDATION WAS APPROVED BY THE CITY OF EDGEWOOD PLANNING COMMISSION ON THE 26<sup>th</sup> DAY OF FEBRUARY 2018.**

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF EDGEWOOD, WASHINGTON, RELATING TO SUBDIVISIONS, ADDING PROCEDURES FOR ALTERATIONS and Vacations OF APPROVED ~~PLATS-Subdivisions~~ AND APPROVED BINDING SITE PLANS, DESCRIBING THE ELEMENTS OF A COMPLETE APPLICATION, CRITERIA FOR APPROVAL, EFFECT OF APPROVAL AND REQUIREMENTS FOR RECORDING, PURSUANT TO RCW 58.17.212 AND 58.17.215, ADDING A NEW CHAPTER 16.07 TO THE EDGEWOOD MUNICIPAL CODE.

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WHEREAS, the Washington Subdivision Act (hereinafter the "Act") includes provisions and procedures for a vacation of subdivision and an alteration of subdivision under of approved plats (RCW Section 58.17.212 and 58.17.215, respectively); and

WHEREAS, the Act also allows municipalities to adopt procedures for binding site plans, consistent with RCW Section 58.17.035; and

WHEREAS, the City of Edgewood has adopted development regulations applicable to plats and binding site plans but does not have any procedures for the vacation and alteration of approved short plats, full subdivision plats, and binding site plans~~approved plats or binding site plans~~; and

WHEREAS, the City's SEPA Responsible Official has determined that this Ordinance is categorically exempt from SEPA as affecting only procedural and no substantive standards, pursuant to WAC Section 197-11-800(19); and

WHEREAS, on February 6, 2018, the Washington State Department of Commerce sent confirmation to the City that the procedural requirements in RCW 36.70A.106(1) were met; and

WHEREAS, on \_\_\_\_\_, ~~February 26, 2018~~, the Planning Commission held a public hearing on this Ordinance and made a recommendation of \_\_\_\_\_ to the City Council; and

WHEREAS, the City Council considered this Ordinance during its regular City Council meetings on \_\_\_\_\_ and \_\_\_\_\_, Now, Therefore,

THE CITY COUNCIL OF THE CITY OF EDGEWOOD, WASHINGTON, ORDAINS AS FOLLOWS:

Section 1. A new eChapter 16.07 is hereby added to the Edgewood Municipal Code (EMC), which shall read as follows:

**Chapter 16.07**  
**Subdivision Vacations and Alterations**  
**of Approved Plats and Final Binding Site Plans.**

**Sections:**

- 16.07.010 Purpose.
- 16.07.020 Administration.
- 16.07.030 Procedure.
- 16.07.040 Additional Notice of Public Hearing
- 16.07.0450 Requirements for a Complete Application.
- 16.07.0560 Criteria for Approval.
- 16.07.0670 Time Limitation for Final Decision.
- 16.07.0780 Recording.
- 16.07.090 Alterations to a Short Subdivision.

16.07.010 Purpose. The purpose of this chapter is to regulate and allow vacations or alterations of approved ~~plats (approved short plats, and approved final full subdivision plats,)~~ and ~~approved final-binding site plans.~~ -It does not allow modification or revision of recorded Boundary Line Adjustments (BLA), preliminary subdivision approvals~~plats~~, or preliminary

Commented [JM1]: Should there be some reference in the earlier sections that directs the reader to this subsection? Just don't want there to be confusion on what part of the code is applicable...

binding site plans. -The procedure for vacation of plats does not apply to the vacation or alteration of any plat of state-granted tide or shore lands.

When the vacation application is specifically for a city street, the procedures for street vacations in RCW 35.79 RCW shall be utilized for the street vacation. -When the application is for the vacation of the plat or binding site plan together with the roads or streets, the procedure for vacation in this chapter shall be used, but vacations of streets subject to RCW 35.79.035 may not be made under this procedure.

**16.07.020 Administration.** The Director is authorized and directed to administer the provisions of this chapter. -The authority to approve, approve with conditions, or deny an approved plat or ~~and~~ final binding site plan vacations or alterations is granted to the Hearing Examiner after a public hearing.

**16.07.030 Procedure.** ~~The following steps~~ Steps 16.07.030.A-I shall be followed in the processing of approved plat and ~~or~~ final binding site plan vacation or alteration applications and administrative appeals shall be heard by City Council. ~~See EMC Section 16.07.090 for Alterations to a Short Subdivision.~~

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|----------------|----------------------|--|
| A.             | EMC 18.40.150        | Determination of Complete Application; |
| B              | EMC 18.40.180        | Notice of Application;                 |
| <del>CD.</del> | EMC 20.05            | SEPA (if required);                    |
| <del>DC.</del> | <u>EMC 18.30.050</u> | _____ Determination of Consistency;    |
| E.             | EMC 18.40.190        | Notice of Public Hearing;              |
| F.             | EMC 18.40.100(K)     | Preparation of Staff Report;           |
| G.             | EMC 18.40.100(L)     | Public Hearing;                        |
| H.             | EMC 18.40.100(Q – R) | Notice of Decision; and                |
| I.             | EMC 18.40.100(T)     | Hearing Examiner Appeal.               |

**Commented [cm2]:** In these blanks, insert the code sections relating to the procedure on the right.

**Commented [KR3]:** What does this mean?  
Reply: DG changed to concurrency (EMC 18.105) and then changed back to consistency (EMC 18.30.050) IAW RCW 36.70B.040

**Commented [cm4]:** If the City Council makes the decision, there is no administrative appeal. If the Hearing Examiner makes a recommendation/decision, then the appeal is to the Council.

**16.07.040 Additional Notice of Public Hearing.** In addition to the notice required in EMC Section 16.07.030. ~~Provided above,~~ the City shall provide notice of an application for a full subdivision or binding site plan vacation or alteration to all owners of property within the subdivision not included in the ~~(excluding the owners of property submitting the application),~~ and as provided for in RCW 58.17.080 and RCW 58.17.090. -The notice shall establish the date of the public hearing.

**16.07.0450 Requirements for a Complete Application.** ~~The following materials shall be submitted to the City for a complete application:~~

- A. The following materials shall be submitted to the City for a complete full subdivision or binding site plan Vacation Application:
1. Date, name, address, and telephone number of the applicant and/or property owner;
  2. The reason(s) for the proposed vacation;

3. Signatures of all parties having an ownership interest in the subdivision or that portion of the subdivision proposed to be vacated;

4. If the plat or binding site plan is subject to restrictive covenants which were filed at the time of the approval of the plat, and the application for the vacation would result in the violation of a covenant, the application shall include an agreement signed by all parties subject to the covenants, which provides that the parties agree to terminate or alter the restrictive covenants to accomplish the purpose of the vacation of the plat or portion thereof;

5. Acknowledgement that if any street is included in the application for a vacation, that the applicant shall be required to pay the amount contemplated in RCW 35.79.030, if the vacation is granted pursuant to EMC Section 12.05.015;

6. A copy of the approved plat or binding site plan sought to be vacated, together with all plat or binding site plan amendments or vacations recorded since the date of the original approval;

7. ~~A recent (120 days) title report for each of the properties affected by the vacation that confirms the owner(s) signing the application hold title of the lands described and shown in the application area~~A recent title report for each property affected by the vacation, confirming that the title of the lands as described and shown in the proposed vacation area is in the name of the owner(s) signing the application; and

8. If the vacation is for a portion of the plat or binding site plan, the applicant must demonstrate that the partial vacation will not violate the terms of plat or binding site plan approval or this Chapter.

9. Electronic version of all submittal documents, in a format acceptable to the City on optical disc, flash drive or downloadable from ftp site, in either Adobe PDF or Microsoft Word format.

10. An application fee ~~as established by City resolution.~~

B. The following materials shall be submitted to the City for a complete full subdivision or binding site plan Alteration Application.

1. Date, name, address, and telephone number of the applicant ~~and/or~~ property owner;

2. The reason(s) for the proposed alteration;

3. Signatures of the majority of those persons having an ownership interest in the lots, tracts, parcels, sites, or divisions in the plat or binding site plan proposed to be altered;

4. If the plat or final binding site plan is subject to restrictive covenants which were filed at the time of the approval of the plat or final binding site plan, and the application for the alteration would result in the violation of a covenant, the application shall contain an agreement signed by all parties subject to the covenants, providing that the parties agree to terminate or alter the relevant covenants to accomplish the purpose of the alteration of the plat or final binding site plan;

5. A copy of the approved plat or final binding site plan sought to be altered, together with all recorded plat ~~or~~ binding site plan amendments or vacations; and

6. A recent (120 days) title report for each of the properties affected by the ~~vacation~~alteration that ~~confirms that the owner(s) signing the application hold title of the lands as described and shown in the application proposed vacation area is in the name of the owner(s) signing the application.~~

Commented [cm5]: Also refer to the City's street vacation procedure. Does the City have one?

7. If the alteration is for a portion of the plat or final binding site plan, the applicant must demonstrate that the alteration will not violate the terms of plat or final binding site plan approval, or this Chapter.

8. An electronic version of all submittal documents, in a format acceptable to the City on optical disc, flash drive or downloadable from ftp site, in either Adobe PDF or Microsoft Word format.

9. An application fee.

C. The following materials shall be submitted to the City for a complete Short Plat Alteration:

1. Date, name, address, and telephone number of the applicant or property owner;

2. The reason(s) for the proposed alteration;

3. Signatures of the majority of those persons having an ownership interest in the lots, tracts, parcels, sites, or divisions in the Short Plat proposed to be altered;

4. If the Short Plat is subject to restrictive covenants which were filed at the time of the approval of the Short Plat, and the application for the alteration would result in the violation of a covenant, the application shall contain an agreement signed by all parties subject to the covenants, providing that the parties agree to terminate or alter the relevant covenants to accomplish the purpose of the alteration of the Short Plat;

5. A copy of the approved Short Plat sought to be altered, together with all previously recorded Short Plat amendments; and

6. A recent (120 days) title report for each of the properties affected by the alteration that confirms the owner(s) signing the application hold title of the lands described and shown in the application area.

7. If the alteration is for a portion of the Short Plat, the applicant must demonstrate that the alteration will not violate the terms of Short Plat approval, or this Chapter.

8. An electronic version of all submittal documents, in a format acceptable to the City.

9. An application fee.

#### **106.07.0560 Criteria for Approval.**

##### **A. Vacation Criteria for a full subdivision or binding site plan.**

1. *Vacation.* The plat or binding site plan vacation may be approved, approved with conditions or denied after a written determination is made whether the public use and interest will be served by the vacation. -The decision shall be supported by written findings and conclusions. -If any portion of the land contained in the plat or binding site plan was dedicated to the public for public use and benefit, such land, if not already deeded to the City, shall be deeded to the City as a condition of approval, unless the decision-maker makes findings that the public use would not be served in retaining title to those lands. -Easements established by a dedication are property rights that cannot be extinguished or altered without the approval of the easement owner or owners, unless the plat, binding site plan or other document creating the dedicated easement provides or an alternative method or methods to extinguish or alter the easement.

2. *Street Vacation.* When the vacation application is specifically for vacation of a City street, the ~~City's street vacation procedures, in EMC Section 12.05.015 and the procedures in RCW eChapter 35.79 RCW~~ shall be utilized. -When the procedure is for the vacation of a plat or binding site plan together with the streets, the vacation procedure in this chapter shall be used, but this procedure cannot be used to vacate streets if prohibited under RCW Section 35.79.035 or the City's street vacation ordinance.

Commented [cm6]: Insert reference here to City's street vacation procedures.

3. *Title to Vacated Property.* Title to the vacated property shall vest with the rightful owner as shown on the county records. -If the vacated land is land that was dedicated to the public, for public use other than a road or street, and the ~~decision maker~~legislative authority has found that retaining title to the land is not in the public interest, title thereto shall vest with the person(s) owning the property on each side thereof, as determined by the decision maker~~legislative authority~~. -When the road or street that is to be vacated is contained wholly within the plat or binding site plan, and is part of the boundary of the subdivision or binding site plan, title to the vacated road or street shall vest with the owner(s) of property contained within the vacated subdivision or binding site plan.

B. Alteration Criteria for a full subdivision or binding site plan.

1. The alteration may be approved, approved with conditions or denied after a written determination is made whether the public use and interest will be served by the alteration. The decision shall be supported by written findings and conclusion.

2. If any land within the alteration area is part of an assessment district, any outstanding assessments shall be equitably divided and levied against the remaining lots, parcels or tracts, or be levied equitably on the lots resulting from the alteration.

3. If any land within the alteration contains a dedication to the general use of persons residing within the subdivision, such land may be altered and divided equitably between the adjacent properties.

**16.07.0670 Time Limitation for Final Decision.** A full subdivision or binding site plan vacation or alteration application shall be approved, approved with conditions, or denied within one hundred-twenty (120) days after a complete application has been submitted, unless the applicant consents in writing to an extension of ~~such the 120-day~~ time period.

**16.07.0780 Recording.** After approval of the alteration or vacation, the City shall order the applicant to produce a revised drawing of the approved full subdivision or binding site plan alteration or vacation ~~of the short plat, final plat or final binding site plan~~. -The Council shall authorize the Mayor to sign the approved alteration ~~or~~ vacation ~~of the short plat, final plat or final binding site plan~~. -The City shall file ~~it~~ the approved alteration or vacation with the County auditor at the applicant's cost. The alteration or vacation, and the same, shall replace and supersede the existing lawful plat or final binding site plan for the property.

**16.07.090 Alterations to a Short Subdivision**

A. General Requirements.

1. Short subdivision alterations apply to those elements which are common to the entire plat.

2. An alteration to a portion of a recorded short plat replaces and supersedes the portion of the original short plat that is contained in the alteration.

3. Additional lots cannot be added except pursuant to RCW Section 58.17.060.

B. Required Written Findings and Determinations.

1. The Director shall inquire into the public use and interest proposed to be served by the establishment of the alteration, if any.

2. The application shall follow the Process II Administrative Action procedures pursuant to EMC Section 18.40.070.

3. A proposed short subdivision alteration shall not be approved unless the Director makes written findings that:

a. The alteration conforms to the requirements of RCW Chapter 58.17 and the provisions of this Title;

b. The items to be altered do not conflict with the goals and policies of the Comprehensive Plan, applicable community plan(s), and any applicable EMC or state laws; and

c. The public use and interest will be served as a result of the proposed alteration.

C. Approval.

1. The Director has the authority to approve or deny any proposed short subdivision and may impose additional or altered conditions and requirements as necessary to assure that the proposal conforms to the Comprehensive Plan, applicable community plan(s), other applicable EMC provisions, state laws, and the criteria contained in this Section.

2. Approvals shall include a note that states: "This altered short plat ~~or large lot division~~ supersedes Lot(s) \_\_\_\_\_ of Short Plat No. \_\_\_\_\_" and a brief written narrative explaining what is being altered and the reason for such alteration, including identification of the specific change(s) to the recorded document.

3. Appeals from the decision of the Director or designee will be heard by the Hearing Examiner.

D. Recording.



1. After approval of the alteration, the City shall order the applicant to produce a revised final drawing of the approved Short Plat alteration for signatures and recording.

2. The same department signature blocks shall be provided on the proposed plat alteration as those listed on the original document.

3. The final document for recording shall be signed by the property owner(s). The Council shall authorize the Mayor to sign the approved alteration.

3.4. The City shall file the approved alteration with the County auditor at the applicant's cost. The alteration shall replace and supersede the existing lawful Short Plat for the property.

**Commented [JM7]:** Mayor does not sign short plats. This suggested revision is more consistent with PCC 18F.20.030 D

Section 2. Publication. This Ordinance shall be published by an approved summary consisting of the title.

Section 3. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this Ordinance.

Section 3. Effective Date. This Ordinance shall become effective five (5) days after publication as provided by law.

ADOPTED by the City Council of the City of \_\_\_\_\_, signed by the Mayor and attested by the City Clerk in authentication of such passage on this \_\_\_ day of \_\_\_\_\_, 201\_.

\_\_\_\_\_  
MAYOR

ATTEST/AUTHENTICATED:

\_\_\_\_\_

City Clerk

APPROVED AS TO FORM:

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City Attorney